

2012

Town of Searsport, Maine Selected Ordinances

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TOWN OF SEARSPORT

LAND USE ORDINANCE

Adopted March 10, 2007

Revised March 8, 2008

Revised March 7, 2009

Revised March 5, 2010

Revised March 10, 2012

SECTION I: GENERAL PROVISIONS

A. TITLE

This Ordinance shall be known as and may be cited as the "Land Use Ordinance of the Town of Searsport, Maine", and will be referred to herein as the "Ordinance".

B. AUTHORITY

This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII of the Maine Constitution and Title 30-A, Section 4352 and Section 300,1 of the Maine Revised Statutes Annotated.

C. PURPOSES

The purposes of the Ordinance are as follows:

1. **COMPREHENSIVE PLAN IMPLEMENTATION:** To implement the policies and recommendations of the Searsport Comprehensive Plan;
2. **PROTECTION OF THE GENERAL WELFARE:** To assure the comfort, convenience, safety, health and welfare of the present and future inhabitants of the Town of Searsport;
3. **PRESERVATION OF THE TOWN CHARACTER:** To preserve and protect the character of Searsport by dividing the Town into districts according to the use of land and buildings and the intensity of such uses;
4. **PROTECTION OF THE ENVIRONMENT:** To protect and enhance the natural, cultural, and historic resources of the Town from unacceptable adverse impacts and to integrate new development harmoniously into the Town's natural environment;
5. **PROMOTION OF COMMUNITY DEVELOPMENT:** To promote the development of an economically sound and stable community;
6. **REDUCTION OF TRAFFIC CONGESTION:** To lessen the danger and congestion of traffic on roads and highways, limit excessive numbers of intersections, driveways, and other friction points, minimize hazards, and ensure the continued usefulness of all elements of the existing transportation systems for their planned function;
7. **BALANCING OF PROPERTY RIGHTS:** To protect property rights and values by balancing the rights of landowners to use their land with the corresponding rights of abutting and neighboring landowners to enjoy their property without undue disturbance from abutting or neighboring uses;
8. **REDUCTION OF FISCAL IMPACT:** To provide a means of evaluating development proposals to determine their fiscal impacts on the municipality's ability to provide and improve necessary public facilities and services; and
9. **ESTABLISHMENT OF PROCEDURES/STANDARDS:** To establish procedures whereby the Town Officials may review the developments regulated by this Ordinance by providing fair and reasonable standards for evaluating such developments; to provide a public hearing process through which interested persons may raise questions and receive answers regarding how such developments may affect them; and to provide procedures whereby aggrieved parties may appeal decisions made under this Ordinance.

D. APPLICABILITY

This Ordinance shall apply to all land areas within the Town of Searsport except for those areas to which the Searsport Shoreland Zoning Ordinance Applies. All buildings or structures hereinafter constructed, reconstructed, altered, enlarged, or moved, and the uses of buildings and land, including the division of land, shall be in conformity with the provisions of this Ordinance. Existing or future buildings, structures, or land areas can be used for any purpose or in any manner as provided for in this Ordinance. A non-conforming use, lot of record or structure as of the effective date of this Ordinance may continue.

E. CONFLICT WITH OTHER ORDINANCES

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation, or ordinance that imposing the most restrictive or higher standards shall govern.

F. SEVERABILITY

In the event that any section, subsection, or any provision of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection, or other portion of this Ordinance; to this end, the provisions of this Ordinance are hereby declared to be severable.

G. AMENDMENTS

1. INITIATION

An amendment to this Ordinance may be initiated by one of the following:

- a. The Planning Board, provided a majority of the board has so voted.
- b. Request of Board of Selectpersons to the Planning Board.
- c. Written petition of 10% of the number of registered voters who voted in the most recent gubernatorial election.
- d. An individual may initiate an amendment through any of the above methods.

2. HEARINGS

All proposed amendments shall be referred to the Planning Board for their recommendation. Within 30 days of receipt of the proposed amendment the Planning Board shall hold a public hearing on any proposed amendment. Within 30 days of the public hearing the Planning Board shall make a written recommendation to the Board of Selectmen.

3. MAJORITY VOTE

After receiving the recommendation of the Planning Board, the amendment may be adopted or rejected by majority vote of the voters at an Annual Town Meeting.

H. ANNUAL ADMINSTRATIVE REVIEW

The Code Enforcement Officer, Planning Board, and Board of Appeals each shall report annually to the Town Manager and Board of Selectpersons on their respective experience with the administration of this Ordinance during the previous year. Their reports to the Manager and Board of Selectpersons shall include any recommended amendments they may have that would:

1. Enhance their ability to more effectively meet their respective administrative responsibilities under this Ordinance;
2. Enhance the implementation of the purposes of this Ordinance contained in subsection C, paragraphs 1 through 9, above.

I. EFFECTIVE DATE

This Ordinance, when adopted, and any amendments thereto, shall be effective immediately following its/their adoption or approval at an Annual Town Meeting. A copy of this Ordinance, certified by the Town Clerk shall be filed with the Town Clerk and the Waldo County Registry of Deeds.

J. REPEAL OF PRIOR ORDINANCE

It is the intention and direction of this Section that if this Ordinance is held to be invalid or void in its entirety, then any Ordinances repealed by this Section shall be automatically revived.

SECTION II: NON-CONFORMING STRUCTURES, USES AND LOTS

The intent of this Ordinance is not to cause harm or undue hardship to property owners. Proposed changes to existing structures, uses and lots will be considered in order to allow continued use.

A. BURDEN OF PROOF

When an owner of any non-conforming structure, use or lot seeks to establish that such structure, use or lot is a lawfully existing non-conforming structure, use or lot as defined in this ordinance, the burden of proof shall be upon said owner.

B. CONTINUANCE (GRANDFATHERING)

The use of any building, structure, or parcels of land, which is made non-conforming by reason of the enactment of this Ordinance, or which shall be made non-conforming by reason of a subsequent amendment, may be continued, subject to the following provisions:

1. EXISTING NON-CONFORMING STRUCTURES

Continuance of non-conforming structures shall be subject to the following provisions:

- a. No such structure shall be enlarged or altered in any way that increases its non- conformity except as noted in Paragraph 2 below;
- b. Should any structure be destroyed or damaged by any means, exclusive of the planned demolition, said structure may be rebuilt on the existing footprint to the dimensions of the structure which was destroyed provided rebuilding is begun within eighteen months; and
- c. A non-conforming structure may be moved within a lot in a manner that would decrease its non-conformity in terms of setback requirements, provided that the Planning Board finds that the change in location is appropriate in regards to:
 - 1) Location and character;
 - 2) Fencing and screening;
 - 3) Landscaping, topography, and natural features;
 - 4) Traffic and access;
 - 5) Signs and lighting; and
 - 6) Potential nuisance.

2. EXISTING NON-CONFORMING USE OF STRUCTURES AND/OR LAND

Continuance of non-conforming use of structures and/or land shall be subject to the following provisions:

- a. No structure devoted to a non-conforming use shall be enlarged or extended by more than a total of 50% of the existing square footage over the life of the building.
- b. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of the adoption or amendment of this Ordinance, but no such uses shall be extended to occupy any land outside such building other than in conformance with (a) above.
- c. Any non-conforming use of a structure or premises may be changed to another non-conforming use provided that the Planning Board shall find that the proposed use is at least as consistent with the District's purpose than the existing non-conforming use, at no time shall a use be permitted which is less conforming nor revert back to the previous non- conforming use;

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- d. If a non-conforming use of a structure or premises is superseded by a permitted use, the non-conforming use shall not thereafter be resumed;
- e. If any such non-conforming use of a structure or land ceases for any reason for a period of more than twenty-four (24) consecutive months, any subsequent use of such structure or land shall comply with standards specified by this Ordinance for the district in which the use is located; an extension can be granted by the Code Enforcement Officer in cases of hardship or situations beyond the owner's control;
- f. A non-conforming use of land or a structure housing an existing non-conforming use may be moved, within the lot, in a manner which would be a more appropriate location, provided that the Planning Board finds that the change in location is appropriate in regards to:
 - 1) Location and character;
 - 2) Fencing and screening;
 - 3) Landscaping, topography, and natural features;
 - 4) Traffic and access;
 - 5) Signs and lighting; and
 - 6) Potential nuisances.

3.. CONSTRUCTION BEGUN PRIOR TO ORDINANCE

This Ordinance shall not require any change in the plans, construction, size, or designated use for any building, structure, or part thereof for which a completed application for a local permit has been made, provided application has been subject to substantive review, or a permit has been issued and upon which construction has been lawfully commenced prior to the adoption or amendment of the Ordinance. In such instances construction must start within one year after the issuance of the permit.

C. NON-CONFORMING LOTS OF RECORD

A single parcel of land, the legal description of which or the dimensions of which are recorded on a document or map recorded in the Registry of Deeds which at the effective date of adoption or subsequent amendment of this Ordinance, does not meet the lot area or width requirements or both, of the district in which it is located, may be built upon as an existing non-conforming lot of record provided that all other provisions of this Ordinance are met.

D. TRANSFER OF OWNERSHIP

Ownership of land and structures that remain lawful but become non-conforming by the adoption or amendment of the Ordinance may be transferred and the new owner may continue the non-conforming uses subject to the provisions of this Ordinance.

SECTION III: ESTABLISHMENT OF DISTRICTS

A. DISTRICTS ESTABLISHED

For the purposes of this Ordinance, the Town of Searsport is hereby divided into the following districts:

- Commercial District (C)
- Commercial 2 District (C2)
- Commercial 3 District (C3)
- Conservation District (CD)
- Halfmoon Pond Watershed District (HPD)
- Historic District (H)
- Industrial District (I)
- Marine District (M)
- Mixed Residential District (MR)
- Residential District (R)
- Residential 2 District (R2)
- Residential 3 District (R3)
- Rural Agricultural Residential District (RAR)

B. DISTRICTS SUBJECT TO THIS ORDINANCE

Details of the following Districts are contained in Section IV

- Commercial District
- Commercial 2 District
- Commercial 3 District
- Industrial District
- Marine District
- Mixed Residential District
- Residential District
- Residential 2 District
- Residential 3 District
- Rural Agricultural District

C. DISTRICTS NOT DESCRIBED IN SECTION IV

1. CONSERVATION DISTRICT (CD)

a. PURPOSE

The purpose of the Conservation District is to encompass areas of the community that are currently owned by the State of Maine and are designated as a state park. The Conservation District is not subject to regulation by the town.

b. AREAS INCLUDED

The location of the Conservation District is illustrated on the Official District Boundary Map of the Town of Searsport.

2. HALFMOON POND WATERSHED DISTRICT (HPD)

a. PURPOSE

The purpose of the Halfmoon Pond Watershed District is to protect the town's water supply and to prevent further deterioration of the pond's water quality. Uses in the Halfmoon Pond Watershed District are governed by the existing Halfmoon Pond Watershed Protection Ordinance.

b. AREAS INCLUDED

The location of the Halfmoon Pond Watershed District is illustrated on the Official District Boundary Map of the Town of Searsport.

3. HISTORIC DISTRICT (H)

a. PURPOSE

The purpose of the Historic District is to acknowledge and ensure the long-term preservation of historical structures listed on the National Register of Historic Places and not to regulate land use. Please refer to the appropriate "overlay" district. This district applies only to properties listed on the National Register of Historic Places. All land use activity proposed within the designated Historic District, pertaining to those structures listed on the National Register of Historic Places shall be submitted by the applicant to the Maine Historic Preservation Commission for comment prior to action being taken by the Planning Board of the Town of Searsport. Maine Historic Preservation Commission comments, as well as recommendations from the local Historic Preservation Committee, shall be attached to the land use permit application upon submission to the Planning Board

b. AREAS INCLUDED

The location of the Historic District is illustrated on the Official District Boundary Map of the Town of Searsport

D. OFFICIAL DISTRICT BOUNDARY MAP

Districts established by this Ordinance are bounded and defined as shown on the official "District Boundary Map of Searsport, Maine". The following rules of interpretation shall apply:

The official copy of the map shall be that map which bears the certification that it is true and correct, signed by the Chairman of the Planning Board and attested by the Town Clerk and on file in the office of the Town Clerk.

E. INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists as to boundary lines of Districts as shown on the official "District Boundary Map of Searsport", the following rules of interpretation shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, public utilities or right of ways shall be construed as following such center lines
2. Boundaries indicated as being approximately following shorelines of any lake or pond shall be construed as following the normal high water mark;
3. Boundaries indicated as being the extension of centerlines of streets shall be construed to be the extension of such centerlines;
4. Boundaries indicated as approximately following the centerlines of streams, rivers or other continuous flowing watercourses shall be construed as following the channel center line of such watercourses;

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5. Boundaries indicated as being parallel to or extension of features listed above shall be so construed. Distances not specifically indicated on the official map shall be determined by the scale of the map;
6. Where physical or cultural features existing on the ground are at variance with those shown on the official map, or in other circumstances where uncertainty exists with respect to the location of a boundary, the Planning Board shall interpret the district boundaries.

F. AMENDMENTS TO DISTRICT BOUNDARIES

The Board of Selectmen, of its own initiative, and the Planning Board or any property owner may petition for a change in the boundary of any District. No change in a District boundary shall be approved without a duly authorized majority vote at a Special or the Annual Town Meeting. A warrant article shall not be presented for consideration without written finding of fact from the Planning Board upon substantial evidence that:

1. The change would be consistent with: the standards of the District boundaries in effect at the time; the Comprehensive Plan; and the purpose, intent, and provisions of this Ordinance; and
2. The change in District boundaries will satisfy a demonstrated need in the community and will have no undue adverse impact on existing uses or resources; or that a new District designation is more appropriate for the protection and management of existing uses and resources within the affected area.

The Planning Board will not act upon petition for a change in District boundaries unless notice is first given to all owners of land abutting or located within 1000 feet of the parcel for which a change in boundaries is sought. The Planning Board may require, as a part of any petition for a change in District boundaries, that the petitioner submit the names and addresses of all such surrounding landowners as well as notify all registered voters.

SECTION IV DISTRICT ATTRIBUTES

This section contains District descriptions, permitted uses and dimensional requirements applicable to new construction.

A. ACTIVITIES DESCRIBED

The various land uses contained herein are organized according to the following seven (7) activity classifications:

1. Resource Management Activities
2. Resource Extraction Activities
3. Residential Activities
4. Institutional Activities
5. Commercial Activities
6. Industrial Activities
7. Transportation Activities

B. CATEGORIES OF USES

1. Uses Allowed
2. Use Requires Code Enforcement Review/Permit
3. Use Requires Planning Board Review/Permit

C. USES SUBSTANTIALLY SIMILAR TO PERMITTED USES SHALL BE PERMITTED

- 1) **USES ALLOWED WITHOUT A PERMIT:** Uses substantially similar to those allowed without a permit but are not listed herein shall be permitted upon a ruling by the Code Enforcement Officer that such use is substantially similar to uses listed.
- 2) **USES REQUIRING A CODE ENFORCEMENT OFFICER PERMIT:** Uses substantially similar to those requiring a Code Enforcement Officer permit but which are not listed herein shall be permitted by the Code Enforcement Officer.
- 3) **USES REQUIRING A PLANNING BOARD PERMIT:** Uses substantially similar to those requiring a Planning Board permit but which are not listed herein shall be permitted by the Planning Board.

D. COMPLIANCE WITH PERFORMANCE STANDARDS REQUIRED

All uses permitted must occur and be maintained in compliance with the applicable requirements and performance standards contained in Section V.

COMMERCIAL DISTRICT (C): The Purpose of the Commercial District is to encourage development of commercial uses while planning carefully to avoid conflicts with residential and other uses, and to inhibit strip development and dense sprawl along Route One. The location of the Commercial District is illustrated on the Official District Boundary Map of the Town of Searsport.

The following uses/activities are allowed in the Commercial District. Similar, but not listed, uses/activities may be permitted after review by Code Enforcement Officer.

RESOURCE MANAGEMENT

Uses allowed without review/permit:

- a) Forest and agricultural management activities
- b) Non-commercial uses for scientific, educational, or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected
- c) Surveying and other resource analysis
- d) Wildlife/fishery management practices

RESOURCE EXTRACTION

Uses allowed without review/permit:

- a) Commercial timber harvesting

Code Enforcement Officer review/permit required:

- a) Filling, grading, draining, dredging or alteration of water table or water level, not including wells
- b) Production of commercial agricultural products.

RESIDENTIAL

Uses allowed without review/permit:

- a) In-Law apartment

Code Enforcement Officer review/permit required

- a) Dwelling – single-family detached
- b) Dwelling – multi-family: two unit or duplex.

Planning Board review required (already in effect):

- a) Boarding care
- b) Dwelling unit: in a commercial establishment
- c) Dwelling - multi-family; 3 or more families, including apartments
- d) Home occupations

INSTITUTIONAL

Planning Board review required (already in effect):

- a) Churches
- b) Day care centers
- c) Fraternal Orders and Service Clubs
- d) Government Facilities and Services
- e) Medical Clinic
- f) Museum
- g) Nursing Homes
- h) Public and private schools, post secondary education facilities

COMMERCIAL

Planning Board review required (already in effect):

- a) Apartment Complex 4+ units
- b) Auction hall, flea market
- c) Automobile body repair, service, sales and supplies
- d) Bait & tackle sales, sporting goods sales
- e) Banks/credit unions
- f) Bar/pub
- g) Beauty shops
- h) Bed & breakfast, motel/hotel/inns
- i) Boat storage facilities, yard
- j) Campground
- k) Commercial fishing operations
- l) Commercial & non-commercial vessel berthing
- m) Craft/gift, tradesman shop, art gallery, antique shop
- n) Fishing, diving, and sailing shop/instruction
- o) Florist shop, greenhouse
- p) Fuel sales – commercial & motor vehicle retail fuels
- q) Funeral home
- r) Grocery store, supermarket
- s) Marina, marine office, harbor supply & services, chandlery
- t) Marine vessel repair, service, sales & rental
- u) Professional offices, office complex
- v) Radio station
- w) Recreation facilities
- x) Recreation vehicles sales and service
- y) Redemption Center
- z) Research & development facilities

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COMMERCIAL DISTRICT (C) (Continued)

<p><u>COMMERCIAL</u> (Continued)</p> <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> aa) Restaurant, take-out restaurant bb) Retail establishments cc) Shipbuilding dd) Seafood distribution ee) Tugboat, fireboat, pilot boat & similar services ff) Veterinary clinic/hospital gg) Video rentals hh) Warehouse/storage facility <p><u>INDUSTRIAL</u></p> <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> a) Light Manufacturing Assembly Plant up to 10,000 sq. ft. b) Wholesale business facility up to 10,000 sq. ft. <p><u>TRANSPORTATION AND UTILITIES</u></p> <p>Code Enforcement Officer review/permit required:</p> <ul style="list-style-type: none"> a) Land management roads and water crossings of standing waters and of minor and major flowing waters <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> a) Inter modal transportation facilities b) Major utility facilities, such as transmission lines, water supply and sewage treatment facilities, but not including service drops c) Road construction projects, other than land management roads, which are part of projects requiring Planning Board review <p>Note: Accessory uses and structures related to the exercise of listed uses are permitted, with Code Enforcement Officer Review.</p>	<p><u>DIMENSIONAL REQUIREMENTS</u></p> <p>Minimum Lot Size</p> <ul style="list-style-type: none"> o 5,000 s.f. with public sewer/water o 20,000 s.f. without public sewer/water <p>Minimum Lot Size per Principle Structure –</p> <ul style="list-style-type: none"> o 5,000 s.f. with public sewer/water o 20,000 s.f. without public sewer/water <p>Minimum Road Frontage</p> <ul style="list-style-type: none"> o State maintained roads (including Route 1) subject to MDOT’s Access Mgmt Standards o Lots not on state maintained roads – 25 ft. <p>Setbacks from property line</p> <ul style="list-style-type: none"> o Downtown* Front, Side and Rear – 0 ft. o Other locations Front, Side and Rear – 10 ft. <p>Maximum building height at ridge line – 40’</p> <p>* For these purposes, the downtown area is defined as follows:</p> <p>On the south side of Route 1 from Elm Street to Mosman Street On the north side of Route 1 from Church Street to Goodell Street</p>
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COMMERCIAL 2 DISTRICT (C2): The Purpose of the Commercial 2 District is to encourage development of low impact commercial uses that will prevent overdevelopment and sprawl. The location of the Commercial 2 District is illustrated on the Official District Boundary Map of the Town of Searsport.

The following uses/activities are allowed in the Commercial 2 District. Similar, but not listed, uses/activities may be permitted after review by Code Enforcement Officer.

RESOURCE MANAGEMENT

Uses allowed without review/permit:

- a) Forest and agricultural management activities
- b) Non-commercial uses for scientific, educational, or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected
- c) Surveying and other resource analysis
- d) Wildlife/fishery management practices

RESOURCE EXTRACTION

Uses allowed without review/permit:

- a) Commercial timber harvesting.

Code Enforcement Officer review/permit required:

- a) Filling, grading, draining, dredging or alteration of water table or water level, not including wells
- b) Production of commercial agricultural products.

RESIDENTIAL

Uses allowed without review/permit:

- a) In-Law apartment

Code Enforcement Officer review/permit required

- a) Dwelling – single-family detached
- b) Dwelling – single-family mobile home
- c) Dwelling – multi-family: two unit or duplex.

Planning Board review required (already in effect):

- a) Boarding care
- b) Dwelling unit: above or behind a commercial establishment
- c) Dwelling - multi-family; 3 or more families, including apartments
- d) Home occupations

INSTITUTIONAL

Planning Board review required (already in effect):

- a) Cemeteries
- b) Churches
- c) Day care centers
- d) Fraternal Orders and Service Clubs
- e) Government Facilities and Services
- f) Medical Clinic
- g) Museum
- h) Nursing Homes
- i) Public and private schools, post secondary education facilities

COMMERCIAL

Planning Board review required (already in effect):

- a) Apartment Complex 4+ units
- b) Auction hall, flea market
- c) Automobile body repair, service, sales and supplies
- d) Bait & tackle sales, sporting goods sales
- e) Banks/credit unions
- f) Bar/pub
- g) Beauty shops
- h) Bed & breakfast, motel/hotel/inns, maximum 10 rooms
- i) Boat storage facilities, yard
- j) Campground
- k) Craft/gift, tradesman shop, art gallery, antique shop
- l) Fishing, diving, and sailing shop/instruction
- m) Florist shop, greenhouse
- n) Fuel Sales
- o) Funeral home
- p) Grocery store
- q) Marine construction & salvage
- r) Marine office, harbor supply & services, chandlery
- s) Professional offices, office complex
- t) Radio station
- u) Recreation facilities
- v) Recreation vehicles sales and service
- w) Redemption Center
- x) Research & development facilities
- y) Restaurant, take-out restaurant
- z) Retail establishments of less than or equal to 10,000 square feet

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COMMERCIAL 2 DISTRICT (C2) (Continued)

<p><u>COMMERCIAL</u> (Continued)</p> <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> aa) Sales & Rentals of marine Vessels and Related Marine Equipment bb) Seafood distribution cc) Shipbuilding dd) Veterinary clinic/hospital ee) Video rentals ff) Warehouse/storage facility <p><u>INDUSTRIAL</u></p> <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> a) Light Manufacturing Assembly Plant up to 10,000 sq. ft. b) Lumber Yard/Sawmill c) Wholesale business facility up to 10,000 sq. ft <p><u>TRANSPORTATION AND UTILITIES</u></p> <p>Code Enforcement Officer review/permit required:</p> <ul style="list-style-type: none"> a) Land management roads and water crossings of standing waters and of minor and major flowing waters <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> a) Inter modal transportation facilities b) Major utility facilities, such as transmission lines, water supply and sewage treatment facilities, but not including service drops c) Road construction projects, other than land management roads, which are part of projects requiring Planning Board review <p>Note: Accessory uses and structures related to the exercise of listed uses are permitted, with Code Enforcement Officer Review.</p>	<p><u>DIMENSIONAL REQUIREMENTS</u></p> <p>Minimum Lot Size</p> <ul style="list-style-type: none"> o 60,000 s.f. <p>Minimum Lot Size per Dwelling Unit –</p> <ul style="list-style-type: none"> o 60,000 s.f. <p>Minimum Road Frontage</p> <ul style="list-style-type: none"> o Rte 1 subject to MDOT's Access Mgmt Standards <p>Setbacks from property line</p> <ul style="list-style-type: none"> o Front – 30 ft. o Side and Rear – 10 ft. <p>Maximum Building Height – 40 ft.</p>
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COMMERCIAL 3 DISTRICT (C3): The Purpose of the Commercial 3 District is to encourage development of low impact commercial uses that will prevent overdevelopment and sprawl. The location of the Commercial 3 District is illustrated on the Official District Boundary Map of the Town of Searsport

The following uses/activities are allowed in the Commercial 3 District. Similar, but not listed, uses/activities may be permitted after review by Code Enforcement Officer.

RESOURCE MANAGEMENT

Uses allowed without review/permit:

- a) Forest and agricultural management activities
- b) Non-commercial uses for scientific, educational, or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected
- c) Surveying and other resource analysis
- d) Wildlife/fishery management practices

RESOURCE EXTRACTION

Uses allowed without review/permit:

- a) Commercial timber harvesting.

Code Enforcement Officer review/permit required:

- a) Filling, grading, draining, dredging or alteration of water table or water level, not including wells
- b) Production of commercial agricultural products.

Planning Board review required (already in effect):

- a) Mineral extraction operations for any purpose affecting an area 2 acres or greater in size

RESIDENTIAL

Uses allowed without review/permit:

- a) In-Law apartment

Code Enforcement Officer review/permit required

- a) Dwelling – single-family detached
- b) Dwelling – single-family mobile home
- c) Dwelling – multi-family: two unit or duplex.

Planning Board review required (already in effect):

- a) Boarding care
- b) Dwelling unit: above or behind a commercial establishment
- c) Dwelling - multi-family; 3 or more families, including apartments
- d) Home occupations
- e) Mobile home Park

INSTITUTIONAL

Planning Board review required (already in effect):

- a) Cemeteries
- b) Churches
- c) Day care centers
- d) Fraternal Orders and Service Clubs
- e) Government Facilities and Services
- f) Medical Clinic
- g) Museum
- h) Nursing Homes
- i) Public and private schools, post secondary education facilities

COMMERCIAL

Planning Board review required (already in effect):

- a) Apartment Complex 4+ units
- b) Auction hall
- c) Automobile body repair, service, sales and supplies
- d) Bait & tackle sales, sporting goods sales
- e) Banks/credit unions
- f) Bar/pub
- g) Beauty shops
- h) Bed & breakfast, motel/hotel/inns, maximum 10 rooms
- i) Boat storage facilities, yard
- j) Campground
- k) Craft/gift/antique/tradesman shop, art gallery
- l) Fishing & commercial vessel berthing
- m) Fishing, diving, and sailing shop/instruction
- n) Florist shop, greenhouse
- o) Fuel Sales
- p) Funeral home
- q) Grocery store, supermarket
- r) Marine office, harbor supply & services, chandlery
- s) Marine transport & excursion services
- t) Professional offices, office complex
- u) Radio station
- v) Recreation facilities
- w) Recreation vehicles sales and service
- x) Research & development facilities
- y) Restaurant, take-out restaurant
- z) Retail establishments of less than or equal to 10,000 square feet

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COMMERCIAL 3 DISTRICT (C3) (Continued)

<p><u>COMMERCIAL</u> (Continued)</p> <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> aa) Sales & Rentals of marine Vessels and Related Marine Equipment bb) Seafood distribution cc) Shipbuilding dd) Sporting Cabins ee) Veterinary clinic/hospital ff) Video rentals gg) Warehouse/storage facility <p><u>INDUSTRIAL</u></p> <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> a) Light Manufacturing Assembly Plant up to 10,000 sq. ft. b) Wholesale business facility up to 10,000 sq. ft <p><u>TRANSPORTATION AND UTILITIES</u></p> <p>Code Enforcement Officer review/permit required:</p> <ul style="list-style-type: none"> a) Land management roads and water crossings of standing waters and of minor and major flowing waters <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> a) Inter modal transportation facilities b) Road construction projects, other than land management roads, which are part of projects requiring Planning Board review <p>Note: Accessory uses and structures related to the exercise of listed uses are permitted, with Code Enforcement Officer Review.</p>	<p><u>DIMENSIONAL REQUIREMENTS</u></p> <p>Minimum Lot Size</p> <ul style="list-style-type: none"> o 60,000 s.f. <p>Minimum Lot Size per Dwelling Unit –</p> <ul style="list-style-type: none"> o 60,000 s.f. <p>Minimum Road Frontage</p> <ul style="list-style-type: none"> o Rte 1 subject to MDOT's Access Mgmt Standards <p>Setbacks from property line</p> <ul style="list-style-type: none"> Front – 30 ft. Side and Rear – 10 ft. <p>Maximum Building Height – 40 ft.</p>
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Land Use Ordinance of the Town of Searsport

INDUSTRIAL DISTRICT (I): The Purpose of the Industrial District is to accommodate industrial and large commercial development. The location of the Industrial District is illustrated on the Official District Boundary Map of the Town of Searsport.

The following uses/activities are allowed in the Industrial District. Similar, but not listed, uses/activities may be permitted after review by Code Enforcement Officer.

RESOURCE MANAGEMENT

Uses allowed without review/permit:

- a) Forest and agricultural management activities
- b) Non-commercial uses for scientific, educational, or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected
- c) Surveying and other resource analysis
- d) Wildlife/fishery management practices

RESOURCE EXTRACTION

Uses allowed without review/permit:

- a) Commercial timber harvesting

Code Enforcement Officer review/permit required:

- a) Filling, grading, draining, dredging or alteration of water table or water level, not including wells
- b) Production of commercial agricultural products.

Planning Board review required (already in effect):

- a) Mineral extraction operations for any purpose affecting an area 2 acres or greater in size

INSTITUTIONAL

Planning Board review required (already in effect):

- a) Day Care Centers
- b) Government Facilities and Services
- c) Medical Clinic
- d) Museum

COMMERCIAL

Planning Board review required (already in effect):

Auction Hall
Automobile body repair, service, sales and supplies
Bait & tackle sales
Banks/credit unions
(Continued)

COMMERCIAL (Continued)

Planning Board review required (already in effect):

- a) Bar/pub
- b) Beauty shops
- c) Boat storage facilities, yard
- d) Cargo Handling Facilities
- e) Commercial fishing operations
- f) Fishing & commercial vessel berthing
- g) Fishing, diving, and sailing shop/instruction
- h) Fuel sales – commercial & motor vehicle retail fuels
- i) Marina, marine office, harbor supply & services, chandlery
- j) Marine construction & salvage, pollution control facilities
- k) Marine vessel repair, service, sales & rental
- l) Professional offices, office complex
- m) Radio station
- n) Research & development facilities
- o) Seafood processing/packaging/distribution
- p) Shipbuilding
- q) Towers
- r) Tradesman Shop
- s) Tugboat, fireboat, pilot boat & similar services
- t) Warehouse/storage facility
- u) Windmills

INDUSTRIAL

Planning Board review required (already in effect):

- a) Automobile junk/salvage yard
- b) Bulk Fuel Distribution Facility - Wholesale
- c) Chemical Manufacturing and/or Distribution
- d) Concrete Plant
- e) Disposal of Hazardous/Leachable Materials
- f) Disposal of Solid Waste other than agriculture
- g) Light Manufacturing Assembly Plant up to 10 k sq. ft.
- h) Lumber Yard/Sawmill
- i) Pulp Mill
- j) Sewage Treatment Facility
- k) Storage/Transport of Leachable Materials
- l) Transportation Facility and Terminal Yard
- m) Wholesale business facility up to 10,000 sq. ft.

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INDUSTRIAL DISTRICT (I) (Continued)

<p><u>TRANSPORTATION AND UTILITIES</u></p> <p>Code Enforcement Officer review/permit required:</p> <ul style="list-style-type: none"> a) Land management roads and water crossings of standing waters and of minor and major flowing waters <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> a) Inter modal transportation facilities b) Major utility facilities, such as transmission lines, water supply and sewage treatment facilities, but not including service drops c) Road construction projects, other than land management roads, which are part of projects requiring Planning Board review <p>Note: Accessory uses and structures related to the exercise of listed uses are permitted, with Code Enforcement Officer Review.</p>	<p><u>DIMENSIONAL REQUIREMENTS</u></p> <p>Minimum Lot Size</p> <ul style="list-style-type: none"> o 3 acres <p>Minimum Lot Size per Dwelling Unit –</p> <ul style="list-style-type: none"> o 3 acres <p>Minimum Road Frontage</p> <ul style="list-style-type: none"> o 200 ft <p>Setbacks from property line</p> <ul style="list-style-type: none"> o Front 60 ft. o Side and Rear 40 ft. <p>Maximum Structure Height</p> <ul style="list-style-type: none"> o 60 ft. for principal structures, o 150 ft. for Cranes, Bulk Fuel Storage Tanks, Silos, Grain Elevators, and similar Structures.
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Land Use Ordinance of the Town of Searsport

MARINE DISTRICT (M): The Purpose of the Marine District is to accommodate marine and commercial marine related activities. The location of the Marine District is illustrated on the Official District Boundary Map of the Town of Searsport

<p>The following uses/activities are allowed in the Marine District. Similar, but not listed, uses/activities may be permitted after review by Code Enforcement Officer.</p> <p><u>RESOURCE MANAGEMENT</u> Uses allowed without review/permit:</p> <ul style="list-style-type: none"> a) Forest and agricultural management activities b) Non-commercial uses for scientific, educational, or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected c) Surveying and other resource analysis. d) Wildlife/fishery management practices <p><u>RESOURCE EXTRACTION</u> Code Enforcement Officer review/permit required:</p> <ul style="list-style-type: none"> a) Filling, grading, draining, dredging or alteration of water table or water level, not including wells <p><u>INSTITUTIONAL</u> Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> a) Government Facilities and Services b) Museum <p><u>COMMERCIAL</u> Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> a) Bait & tackle sales b) Boat Storage Facilities, Boat yard c) Campgrounds d) Cargo Handling Facilities e) Commercial Fishing Operations f) Commercial & non-commercial vessel berthing g) Conference/Education Center up to 150 person capacity h) Craft, tradesman shop, art gallery, antique shop i) Fishing, diving, and sailing shop/instruction j) Marina, marine office, harbor supply & services, chandlery k) Marine construction & salvage, pollution control facilities l) Marine transport & excursion services m) Marine vessel repair, service, sales & rental <p>(Continued)</p>	<p><u>COMMERCIAL</u> Planning Board review required (already in effect): (Continued)</p> <ul style="list-style-type: none"> a) Motel, hotel and inns b) Recreation facilities c) Research & development facilities d) Restaurant, take-out restaurant e) Retail establishments of less than or equal to 10,000 square feet f) Seafood processing/packaging/distribution g) Shipbuilding h) Tugboat, fireboat, pilot boat & similar services i) Warehouse/storage facility j) Windmills k) Yacht Clubs <p><u>TRANSPORTATION AND UTILITIES</u> Code Enforcement Officer review/permit required:</p> <ul style="list-style-type: none"> a) Land management roads and water crossings of standing waters and of major flowing waters <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> a) Intermodal transportation facilities b) Major utility facilities, such as transmission lines, water supply and sewage treatment facilities, but not including service drops c) Road construction projects, other than land management roads, which are part of projects requiring Planning Board review <p>Note: Accessory uses and structures related to the exercise of listed uses are permitted, with Code Enforcement Officer Review.</p> <p><u>DIMENSIONAL REQUIREMENTS</u></p> <p>Minimum Lot Size</p> <ul style="list-style-type: none"> o 1 acre <p>Minimum Lot Size per Principle Structure</p> <ul style="list-style-type: none"> o 1 acre <p>Minimum Road Frontage</p> <ul style="list-style-type: none"> o 100 ft. <p>Setbacks from property line</p> <ul style="list-style-type: none"> o Front 40 ft. o Side and Rear 10 ft. <p>Maximum Building Height</p> <ul style="list-style-type: none"> o 40 ft.
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Land Use Ordinance of the Town of Searsport

MIXED RESIDENTIAL DISTRICT (MR): The purpose of the Mixed Residential District is to provide an additional area of the community for light industrial growth and expansion of residential and commercial development. The location of the Mixed Residential District is illustrated on the Official District Boundary Map of the Town of Searsport.

<p>The following uses/activities are allowed in the Mixed Residential District. Similar, but not listed, uses/activities may be permitted after review by Code Enforcement Officer.</p> <p><u>RESOURCE MANAGEMENT</u> Uses allowed without review/permit:</p> <ul style="list-style-type: none"> a) Forest and agricultural management activities b) Non-commercial uses for scientific, educational, or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected c) Surveying and other resource analysis d) Wildlife/fishery management practices <p><u>RESOURCE EXTRACTION</u> Uses allowed without review/permit:</p> <ul style="list-style-type: none"> a) Commercial timber harvesting <p>Code Enforcement Officer review/permit required:</p> <ul style="list-style-type: none"> a) Filling, grading, draining, dredging or alteration of water table or water level, not including wells b) Production of commercial agricultural products. <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> a) Mineral extraction operations for any purpose affecting an area 2 acres or greater in size <p><u>RESIDENTIAL</u> Uses allowed without review/permit:</p> <ul style="list-style-type: none"> a) In law apartment <p>Code Enforcement Officer review/permit required:</p> <ul style="list-style-type: none"> a) Single-family detached dwelling b) Single-family mobile home c) Multi-family dwelling: two unit or duplex <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> d) Dwelling unit above or behind a commercial establishment e) Multi-Family dwelling; 3 or more families, including apartments f) Mobile home park g) Boarding care h) Home occupations 	<p><u>INSTITUTIONAL</u> Planning Board Review required (already in effect):</p> <ul style="list-style-type: none"> a) Cemeteries b) Churches c) Day care centers d) Fraternal Orders and Service Clubs e) Nursing homes f) Public and private schools, post secondary education facilities <p><u>COMMERCIAL</u> Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> a) Adult entertainment b) Apartment Complex 4+ units c) Auction hall d) Automobile body repair, service, sales and supplies e) Bait & tackle sales, sporting goods sales f) Banks/credit unions g) Beauty shops h) Bed & breakfast i) Boat storage facilities, yard j) Campground k) Cargo Handling Facilities l) Commercial fishing operations m) Commercial & non-commercial vessel berthing n) Craft/gift, tradesman shop, art gallery, antique shop o) Fishing, diving, and sailing shop/instruction p) Florist shop, greenhouse q) Fuel sales r) Funeral home s) Grocery store t) Marine construction & salvage u) Marine office, harbor supply & services, & chandlery v) Marine vessel repair, service, sales & rental w) Professional offices x) Recreation facilities y) Recreation vehicles sales and service z) Redemption Center aa) Research & development facilities bb) Restaurant, take-out restaurant <p>(Continued – next page)</p>
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MIXED RESIDENTIAL DISTRICT (MR) (CONTINUED)

<p><u>COMMERCIAL</u> (Continued)</p> <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> cc) Retail establishments of less than or equal to 10,000 square feet dd) Sporting Goods ee) Towers up to and including 195 feet in height ff) Veterinary clinic/hospital gg) Video rentals hh) Warehouse/storage facility <p><u>INDUSTRIAL</u></p> <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> a) Automobile junk/salvage yard b) Bulk Fuel Distribution Facility - Wholesale c) Concrete Plant d) Disposal of Solid Waste other than agriculture e) Light Manufacturing Assembly Plant up to 10 k sq. ft. f) Lumber Yard/Sawmill g) Storage/Transport of Leachable Materials h) Transportation Facility and Terminal Yard i) Wholesale business facility up to 10,000 sq. ft. <p><u>TRANSPORTATION AND UTILITIES</u></p> <p>Code Enforcement Officer review/permit required:</p> <ul style="list-style-type: none"> a) Land management roads and water crossings of standing waters and of minor and major flowing waters <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> a) Inter modal transportation facilities b) Major utility facilities, such as transmission lines, water supply and sewage treatment facilities, but not including service drops c) Road construction projects, other than land management roads, which are part of projects requiring Planning Board review <p>Note: Accessory uses and structures related to the exercise of listed uses are permitted, with Code Enforcement Officer Review.</p>	<p><u>DIMENSIONAL REQUIREMENTS</u></p> <p>Minimum Lot Size</p> <ul style="list-style-type: none"> o 20,000 s.f. <p>Minimum Lot Size per Principle Structure</p> <ul style="list-style-type: none"> o 7,500 s.f. with public sewer/water o 20,000 s.f. without public sewer/water <p>Minimum Road Frontage</p> <ul style="list-style-type: none"> o 100 ft. <p>Setbacks from property line</p> <ul style="list-style-type: none"> o Front 20 ft. o Side and Rear 10 ft. <p>Maximum Building Height</p> <ul style="list-style-type: none"> o 40 ft.
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Land Use Ordinance of the Town of Searsport

RESIDENTIAL DISTRICT (R): The purpose of the Residential District is to encompass existing development and to provide areas for growth for future residential housing needs and small businesses. The location of the Residential District is illustrated on the Official District Boundary Map of the Town of Searsport

<p>The following uses/activities are allowed in the Residential District. Similar, but not listed, uses/activities may be permitted after review by Code Enforcement Officer.</p> <p><u>RESOURCE MANAGEMENT & EXTRACTION</u></p> <p>Uses allowed without review/permit:</p> <ul style="list-style-type: none"> a) Wildlife/fishery mgmt practices b) Surveying & other resource analysis c) Forest and Agricultural mgmt activities. d) Non-commercial uses for scientific, educational or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected e) Commercial timber harvesting <p>Code Enforcement Officer review/permit required:</p> <ul style="list-style-type: none"> a) Filling, grading, draining, dredging or alteration of water table or water level, not including individual wells. <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> a) Mineral extraction operations for any purpose, affecting an area 2 acres or greater in size. <p><u>RESIDENTIAL</u></p> <p>Uses allowed without review/permit:</p> <ul style="list-style-type: none"> a) In law apartment <p>Code Enforcement Officer review/permit required:</p> <ul style="list-style-type: none"> a) Single-family detached dwelling b) Single-family mobile home c) Multi-family dwelling: two unit or duplex <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> a) Dwelling unit above or behind a commercial establishment b) Multi-Family dwelling; 3 or more families, including apartments c) Mobile home park d) Boarding care e) Home occupations <p><u>INSTITUTIONAL</u></p> <p>Planning Board Review required (already in effect):</p> <ul style="list-style-type: none"> a) Cemeteries b) Churches c) Day care centers d) Nursing homes 	<p><u>COMMERCIAL</u></p> <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> a) Apartment complex 4+ units b) Beauty shops c) Bed & Breakfasts d) Craft shop/art gallery, antique shop e) Florist shop, greenhouse f) Funeral home g) Professional offices h) Recreational facilities i) Research & development facilities j) Veterinary clinic/hospital <p><u>TRANSPORTATION & UTILITIES</u></p> <p>Code Enforcement Officer review/permit required:</p> <ul style="list-style-type: none"> a) Land Management roads and water crossings of standing waters, minor and major flowing waters <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> a) Intermodal transportation facilities b) Major utility facilities, such as transmission lines, water supply and sewage treatment facilities, but not including service drops c) Road construction projects, other than land management roads, which are part of projects requiring Planning Board review <p>Note: Accessory uses and structures related to the exercise of listed uses are permitted, with Code Enforcement Officer Review.</p> <p><u>DIMENSIONAL REQUIREMENTS</u></p> <p>Minimum Lot Size</p> <ul style="list-style-type: none"> o 10,000 s.f. with public sewer/water o 20,000 s.f. without public sewer/water <p>Minimum Lot Size per Principle Structure –</p> <ul style="list-style-type: none"> o 7,500 s.f. with public sewer/water o 20,000 s.f. without public sewer/water <p>Minimum Road Frontage –</p> <ul style="list-style-type: none"> o Rte 1 & other state maintained roads subject to MDOT's Access Mgmt Standards; o Lots not on Rte. 1 – 100 ft. <p>Setbacks from property line – front 15'; side & rear 10'</p> <p>Maximum building height at ridge line – 40'</p>
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Land Use Ordinance of the Town of Searsport

RESIDENTIAL 2 DISTRICT (R2): The purpose of the Residential 2 District is to minimize the potential for sprawl and retain the unique character of these portions of the community. The location of the Residential 2 District is illustrated on the Official District Boundary Map of the Town of Searsport.

The following uses/activities are allowed in the Residential 2 District. Similar, but not listed, uses/activities may be permitted after review by Code Enforcement Officer.

RESOURCE MANAGEMENT & EXTRACTION

Uses allowed without review/permit:

- a) Wildlife/fishery management practices
- b) Surveying and other resource analysis
- c) Forest and agricultural management activities
- d) Non-commercial uses for scientific, educational, or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected
- e) Commercial timber harvesting

Code Enforcement Officer review/permit required:

- a) Filling, grading, draining, dredging or alteration of water table or water level, not including individual wells.

RESIDENTIAL

Uses allowed without review/permit:

- a) In law apartment

Code Enforcement Officer review/permit required:

- a) Single-family detached dwelling
- b) Single-family mobile home
- c) Multi-family dwelling: two unit or duplex

Planning Board review required (already in effect):

- a) Dwelling unit above or behind a commercial establishment
- b) Multi-Family dwelling; 3 or more families, including apartments
- c) Boarding care
- d) Home occupations

COMMERCIAL

Planning Board review required (already in effect):

- a) Bed & Breakfasts
- b) Craft shop/art gallery, antique shop
- c) Florist shop, greenhouse
- d) Professional offices
- e) Veterinary clinic/hospital

TRANSPORTATION & UTILITIES

Code Enforcement Officer review/permit required:

- a) Land Management roads and water crossings of standing waters, minor and major flowing waters

Planning Board review required (already in effect):

- a) Intermodal transportation facilities
- b) Road construction projects, other than land management roads, which are part of projects requiring Planning Board review

Note: Accessory uses and structures related to the exercise of listed uses are permitted, with Code Enforcement Officer Review.

DIMENSIONAL REQUIREMENTS

Minimum Lot Size

- o 60,000 s.f.

Minimum Lot Size per Dwelling Unit –

- o 60,000 s.f.

Minimum Road Frontage

- o State maintained roads (including Route 1) subject to MDOT's Access Mgmt Standards
- o Lots not on state maintained roads – 100 ft.

Setbacks from property line – front 30'; side & rear 10'

Maximum building height at ridge line – 40'

RESIDENTIAL 3 DISTRICT (R3): The purpose of the Residential 3 District is to maintain the unique historic character of this downtown residential neighborhood. The location of the Residential 3 District is illustrated on the Official District Boundary Map of the Town of Searsport.

<p>The following uses/activities are allowed in the Residential 3 District. Similar, but not listed, uses/activities may be permitted after review by Code Enforcement Officer.</p> <p><u>RESOURCE MANAGEMENT & EXTRACTION</u></p> <p>Uses allowed without review/permit:</p> <ul style="list-style-type: none"> a) Surveying and other resource analysis b) Forest and agricultural management activities c) Non-commercial uses for scientific, educational, or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected d) Commercial timber harvesting <p>Code Enforcement Officer review/permit required:</p> <ul style="list-style-type: none"> a) Filling, grading, draining, dredging or alteration of water table or water level, not including individual wells. <p><u>RESIDENTIAL</u></p> <p>Uses allowed without review/permit:</p> <ul style="list-style-type: none"> a) In law apartment <p>Code Enforcement Officer review/permit required:</p> <ul style="list-style-type: none"> a) Single-family detached dwelling <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> a) Boarding care b) Home occupations <p><u>COMMERCIAL</u></p> <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> a) Bed & Breakfasts b) Commercial fishing operations c) Fishing & commercial vessel berthing d) Noncommercial Vessel Berthing 	<p><u>TRANSPORTATION & UTILITIES</u></p> <p>Code Enforcement Officer review/permit required:</p> <ul style="list-style-type: none"> a) Land Management roads and water crossings of standing waters, minor and major flowing waters <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none"> a) Intermodal transportation facilities b) Road construction projects, other than land management roads, which are part of projects requiring Planning Board review <p>Note: Accessory uses and structures related to the exercise of listed uses are permitted, with Code Enforcement Officer Review.</p> <p><u>DIMENSIONAL REQUIREMENTS</u></p> <p>Minimum Lot Size</p> <ul style="list-style-type: none"> o 10,000 s.f. <p>Minimum Lot Size per Principle Structure –</p> <ul style="list-style-type: none"> o 7,500 s.f. <p>Minimum Road Frontage-</p> <ul style="list-style-type: none"> o 100 ft. <p>Setbacks from property line</p> <ul style="list-style-type: none"> o front, side & rear 10ft. <p>Maximum building height 40ft.</p>
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RURAL AGRICULTURAL RESIDENTIAL DISTRICT (RAR): The purpose of the Rural Agricultural Residential District is to maintain the rural character of the town, to protect agricultural and forestry uses, to provide open spaces and to provide for lower density residential dwellings. The location of the Rural Agricultural Residential District is illustrated on the Official District Boundary Map of the Town of Searsport.

The following uses/activities are allowed in the Rural Agricultural District. Similar, but not listed, uses/activities may be permitted after review by Code Enforcement Officer

RESOURCE MANAGEMENT

Uses allowed without review/permit:

- a) Forest and agricultural management activities
- b) Non-commercial uses for scientific, educational, or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected
- c) Surveying and other resource analysis
- d) Wildlife/fishery management practices

RESOURCE EXTRACTION

Uses allowed without review/permit:

- a) Commercial timber harvesting

Code Enforcement Officer review/permit required:

- a) Filling, grading, draining, dredging or alteration of water table or water level, not including wells
- b) Production of commercial agricultural products

Planning Board review required (already in effect):

- a) Mineral extraction operations for any purpose affecting an area 2 acres or greater in size

RESIDENTIAL

Uses allowed without review/permit:

- a) In-Law apartment

Code Enforcement Officer review/permit required:

- a) Dwelling – single-family detached
- b) Dwelling – single-family mobile home
- c) Dwelling – multi-family: two unit or duplex

RESIDENTIAL (Continued)

Planning Board review required (already in effect):

- a) Boarding care
- b) Dwelling unit: above or behind a commercial establishment
- c) Dwelling - multi-family; 3 or more families, including apartments
- d) Home occupations

INSTITUTIONAL

Planning Board review required (already in effect):

- a) Cemeteries
- b) Churches
- c) Day Care Centers
- d) Fraternal Orders and Service Clubs
- e) Medical Clinic
- f) Museum
- g) Nursing Homes
- h) Public and private schools, post secondary education facilities

COMMERCIAL

Planning Board review required (already in effect):

- a) Auction hall, flea market
- b) Bait & tackle sales
- c) Beauty Shops
- d) Bed and Breakfast
- e) Boarding Kennels
- f) Boat storage facilities
- g) Campgrounds
- h) Craft, tradesman shop, art gallery, antique shop
- i) Florist shop, greenhouse
- j) Funeral home
- k) Golf course
- l) Grocery Store
- m) Professional Offices
- n) Recreation facilities
- o) Research & development facilities
- p) Sporting Cabins
- q) Towers
- r) Veterinary Clinic/Hospital
- s) Windmills

(Continued next page)

RURAL AGRICULTURAL RESIDENTIAL DISTRICT (RAR) (Continued)

<p><u>INDUSTRIAL</u></p> <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none">a) Lumber Yard/Sawmill <p><u>TRANSPORTATION AND UTILITIES</u></p> <p>Code Enforcement Officer review/permit required:</p> <ul style="list-style-type: none">a) Land Management roads and water crossings of standing waters, minor and major flowing waters <p>Planning Board review required (already in effect):</p> <ul style="list-style-type: none">a) Inter modal transportation facilitiesb) Major utility facilities, such as transmission lines, water supply and sewage treatment facilities, but not including service dropsc) Road construction projects, other than land management roads, which are part of projects requiring Planning Board review <p>Note: Accessory uses and structures related to the exercise of listed uses are permitted, with Code Enforcement Officer Review.</p>	<p><u>DIMENSIONAL REQUIREMENTS</u></p> <p>Minimum Lot Size</p> <ul style="list-style-type: none">o 3 acres <p>Minimum Lot Size per Dwelling Unit</p> <ul style="list-style-type: none">o 1 acre (less if cluster housing provisions are met) <p>Minimum Road Frontage</p> <ul style="list-style-type: none">o 200 ft. <p>Setbacks from property line</p> <ul style="list-style-type: none">o Front 25 ft.o Side and Rear 10 ft. <p>Maximum Building Height – 40 ft.</p>
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SECTION V: LAND USE STANDARDS

SECTION USERS GUIDE: This section contains general performance standards with which all new development proposals submitted for approval pursuant to this Ordinance must comply.

The purpose of the regulations contained in this section is to allow maximum utilization of land while protecting against adverse impacts on the environment, neighboring properties, and the public interest. This assurance is provided by separating the areas of the Town of Searsport into districts and permitting specific land uses within each, provided that a use meets all the additional criteria specified in this Ordinance.

This regulatory approach has been termed "performance zoning" because it permits a use to be developed on a particular parcel only if the use on that parcel meets "performance standards".

The following Land Use Standards shall govern all Land Use Permits issued by the Code Enforcement Officer and the Planning Board.

In reviewing applications submitted pursuant to this Ordinance, the Code Enforcement Officer or the Planning Board shall consider the following performance standards and make written findings that each applicable standard has been met prior to issuing final approval. In all instances, the burden of proof shall be upon the applicant.

GENERAL STANDARDS

A) CONFORMANCE WITH COMPREHENSIVE PLAN

All proposed development shall be in conformity with the Comprehensive Plan and Policy Statements of the Town contained within the Plan and with the provisions of all pertinent local ordinances and regulations, State laws and Federal regulations.

B) ACCESS REQUIREMENTS

Access to public roads shall be strictly controlled in both location and design. Provision shall be made for adequate access to safeguard against hazards to traffic and pedestrians in the road and within a developed area, to avoid traffic congestion on any road and to provide safe and convenient circulation on public roads. All state roads are subject to MDOT's Access Management Standards.

C) BUFFERS

All industrial and commercial development adjacent to residential dwellings must provide landscaped buffer strips in the form of evergreen, deciduous vegetation or fencing. The buffering shall be sufficient to minimize the impacts of expected uses such as exposed machinery, outdoor storage areas, vehicle loading and parking, mineral extraction and waste collection, disposal areas, noise, odor and light pollution.

All industrial uses adjacent to residential dwellings shall provide a twenty foot (20') wide vegetative buffer in the form of evergreen, or deciduous vegetation for the rear and side yards to minimize the impact of the industrial use.

D) CLUSTER DEVELOPMENT

This approach is an incentive to preserve open space. In no case shall lots served by subsurface sewage disposal systems be less than 20,000 square feet.

- 1) If 25% to 50% of the site is permanently preserved as open space a corresponding reduction in the minimum lot area per dwelling unit shall be allowed.

E) HOME OCCUPATIONS

The purpose of the Home Occupation provision is to permit the conduct of those businesses that are compatible with the Districts in which they are allowed. Home occupations are limited to those uses which may be conducted within a residential dwelling, accessory structure or on the property without substantially changing the appearance or condition of the residence or accessory structure, or materially injuring the usefulness of the residence or accessory structure for normal residential purposes

1. Any home occupation or profession which is accessory to and compatible with a residential use may be permitted if it conforms to the following conditions:
 - a. The home occupation shall be carried on within the dwelling, accessory structure or on the property;
 - b. The home occupation shall be conducted only by a member or members of the family residing in the dwelling unit, and/or not more than two employees;
 - c. Objectionable conditions such as noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare, or activity at unreasonable hours, shall not be permitted;
 - d. The traffic generated by such home occupation shall not increase the volume of traffic so as to create a traffic hazard or disturb the residential character of the immediate neighborhood, and
 - e. The home occupation may utilize for public access:
 - i. Basement spaces;
 - ii. One accessory structure;
 - iii. Unfinished attic spaces to be used for storage only;
 - iv. Home occupations which involve use or storage of hazardous or leachable materials in excess of normal residential use are not permitted, and
 - v. In no case shall the home occupation be open to the public at times earlier than 7:00 A.M. nor later than 9:00 P.M.

F) INDUSTRIAL PERFORMANCE STANDARDS

The following provisions shall apply to all permitted industrial uses:

1. Danger - No material which is dangerous due to explosion, extreme fire hazard, chemical hazard or radioactivity shall be used, stored, manufactured, processed or assembled except in accordance with applicable State and Federal codes and regulations.
2. Vibration - With the exception of vibration necessarily involved in the construction or demolition of buildings, no vibration shall be transmitted outside the lot where it originates.
3. Wastes - No offensive wastes shall be discharged or dumped into any river, stream, watercourse, storm drain, pond, lake, or swamp. Industrial wastewater may be discharged to municipal sewers only and in such quantities and quality as to be compatible with existing municipal facilities as proscribed by the Wastewater Superintendent.
4. Noise - Offensive noise shall not be transmitted beyond lot lines so as to cause unreasonable disturbance to neighboring residential properties.

G) LIGHTING DESIGN STANDARDS

All exterior lighting shall be designed to minimize adverse impact on neighboring properties.

H) MANUFACTURED HOUSING

All manufactured housing sited within the Town of Searsport after the adoption of this ordinance must meet the standards of the Manufactured Home & Construction Safety Standards of the Department of Housing & Urban Development adopted in 1976.

I) SIGNS

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No sign shall be hereafter erected, altered or maintained, within the limits of the Town of Searsport except in conformance with the provisions of this section.

1. Signs Prohibited: No sign, whether new or existing, shall be permitted within the Town of Searsport which causes a traffic sight, health or welfare hazard, or results in a nuisance, due to illumination, placement, display, or obstruction of existing signs.
2. Sign Requirements: Signs in the downtown area including the first tax lot on the West side of Goodell Street, and buildings listed on the National Registry of Historic Places will be submitted to and reviewed by the Historic Preservation Committee and then the Planning Board for consistency determination and approval with District aesthetics.
3. Off Premise Signs: No off premise sign shall be erected or maintained in the Town of Searsport except in conformity with the MRSA Title 23, Section 1901-1925, and The Maine Traveler Information Services Law. Off premises official business directional signs may be located in the Town of Searsport in such a location and in such a manner as allowed under Title 23, Section 1901-1925 and under the rules and regulations of the Department of Transportation of the State of Maine.
4. Exempt Signs: The following signs are exempt from the provisions of this section except as otherwise provided for herein:
 - a) Traffic control signs, signals, and/or other devices regulating or enhancing public safety erected by a governmental body.

J) TOWERS – Refer to Searsport Wireless Facilities Ordinance

K) TRANSIENT ACCOMMODATIONS: “BED AND BREAKFAST”

“Bed and Breakfast” accommodations shall be permitted in the private residence of the host family who live on the premises provided that:

1. The maximum number of guests at any time is sixteen (16) persons;
2. The maximum number of beds is eight (8);
3. Breakfast is the only meal provided by the host family, and
4. Two (2) signs, each not to exceed nine (9) square feet, are permitted on the premises.

L) WINDMILLS – Refer to Searsport Wind Energy Ordinance

SECTION VI: ADMINISTRATION AND ENFORCEMENT

SECTION USERS GUIDE: This section contains provisions for the administration of this Ordinance including specific provisions for certificates of compliance, conditions of approval, and public hearings.

A. CREATION OF ADMINISTERING BODIES AND AGENTS

1. CODE ENFORCEMENT OFFICER

The Code Enforcement Officer shall approve or deny those applications on which he/she is employed to act as provided in this Ordinance. Approval shall be granted only if the proposed use is in conformance with the provisions of this Ordinance.

2. PLANNING BOARD

The Planning Board of the Town of Searsport is hereby designated as the Planning Board heretofore, established in accordance with Article VIII, Pt.2, Section 1, of the Maine Constitution and Title 30-A MRSA, Section 3001. The Planning Board shall be appointed by the Selectmen of the Town of Searsport.

The Planning Board is empowered by this Ordinance to approve, approve with conditions, or deny applications. Approval shall be granted only if the proposed use is in conformance with the provisions of this Ordinance.

3. BOARD OF APPEALS

The Board of Appeals for the Town of Searsport shall be established and governed in accordance with the Town's Board of Appeals Ordinance.

B. APPROVAL REQUIRED

After the effective date of this Ordinance, no person shall engage in any activity requiring a permit under this Ordinance without first obtaining the approval of the Planning Board or Code Enforcement Officer, as provided herein.

C. APPLICATION REQUIRED

Applications for approval shall be submitted in writing, on forms provided, to the Code Enforcement Officer or Planning Board as appropriate, who shall oversee the permitting process and record keeping. The Code Enforcement Officer or Planning Board may require the submission of additional information deemed necessary to determine conformance with the provisions of this Ordinance.

D. CODE ENFORCEMENT OFFICER PERMIT

A permit issued by the Code Enforcement Officer shall be required before beginning or undertaking any of the following activities:

1. ACTIVITIES REQUIRING PERMIT

- a. **FLOOD HAZARD AREAS:** All construction or earth moving activities or other improvements within the 100-year flood plain designated on the Flood Insurance Rate Maps published by the Federal Emergency Management Agency.
- b. **NEW CONSTRUCTION:** New construction of buildings or structures.
- c. **ALTERATION:** Alteration of a building, structure, or land, or parts thereof, for change in use.
- d. **PLACEMENT OF SIGNS:** Placement of signs except temporary signs.
- e. **MOVING OR DEMOLITION:** All buildings or structures which are removed from or moved onto, or moved around within a lot, or demolished.
- f. **CHANGE OF USE:** The change of any premises from one category of land use to any other land use.
- g. **SECTION IV: F. SCHEDULE OF USES.** Any activity requiring a Land Use Permit in accordance with the Land Use Ordinance Schedule of Uses.

2.PROCEDURE

- a. **APPLICATION:** All applications for a Code Enforcement Officer Permit shall be submitted, with fee if applicable, in writing to the Code Enforcement Officer on forms provided.
- b. **SUBMISSIONS:** All applications for a Code Enforcement Officer Permit shall be accompanied by a sketch plan, accurately drawn to scale and showing actual dimensions or distances, and showing:
 - aa. The actual shape and dimensions of the lot for which a permit is sought;
 - bb. The location and size of all buildings, structures, and other significant features currently existing on the lot, as well as all waterbodies and wetlands within two hundred fifty feet (250') of the property lines;
 - cc. The location and building plans of new buildings, structures or portions thereof to be constructed. Plans to be submitted if deemed necessary by the Code Enforcement officer;
 - dd. The existing and intended use of each building or structure;
 - ee. Where applicable, the location of soil test pits, subsurface sewage disposal system, parking lots and driveways, signs, buffers, private wells; and
 - ff. Such other information as may be reasonably required by the Code Enforcement Officer to provide for the administration and enforcement of this Ordinance.
- c. **TO WHOM ISSUED:** A permit shall be issued to none other than the owner of record or his authorized agent. Written proof of authorization shall be required.
- d. **COMPLIANCE WITH LAND USE ORDINANCE:** All activities undertaken pursuant to a permit issued under this Section shall comply with all applicable standards set forth in Section V of this Ordinance.
- e. **DEADLINE FOR DECISION:** The Code Enforcement Officer shall, within thirty (30) days of receipt of an application: issue the permit, if all proposed construction and uses meet the provisions of the Ordinance; refer the application to the Planning Board for their review; or deny the application. All decisions of the Code Enforcement Officer shall be in writing.
- f. **COPIES:** One (1) copy of the application, with the permit or other written decision of the Code Enforcement Officer, shall be returned to the applicant, and one (1) copy, with a copy of the permit or written decision, shall be retained by the Code Enforcement Officer as a permanent public record.
- g. **POSTING:** The applicant shall cause any permit issued to be conspicuously posted on the lot on which the activity will occur at a location clearly visible from the street.
- h. **COMMENCEMENT AND COMPLETION OF WORK:** Construction and alteration activities on projects for which a permit has been granted under this Section shall be completed within twenty-four (24) months of the date of issuance of that permit.

Activities may be extended for up to twelve (12) months by the Code Enforcement Officer, for good cause, if an application for an extension is submitted not later than thirty days prior to the expiration of the prior permit and a substantial portion has been completed.

If an application for extension is not submitted, then activities which are not commenced or completed within the time limits provided above shall be subject to new application and the permit issued under this Section shall be considered void.
- i. **APPEALS:** Appeals from decisions of the Code Enforcement Officer may be taken pursuant to the provisions of this Ordinance.

E. PLANNING BOARD PERMIT REVIEW

The Planning Board shall review all applicable Planning Board Permit applications pursuant to Section IV, District Attributes.

1. **APPLICATION:** All applications for a Planning Board Permit shall be in accordance with Searsport's Site Plan Review Ordinance.
2. **TO WHOM ISSUED:** A permit shall be issued to none other than the owner of record or his authorized agent. Written proof of authorization shall be required.
3. **COMPLIANCE WITH LAND USE ORDINANCE:** All activities undertaken pursuant to a permit issued under this Section shall comply with all applicable standards set forth in Section V of this Ordinance.
4. **APPEALS:** Appeals from decisions of the Planning Board may be taken pursuant to the provisions of this Ordinance.

F. OTHER PERMITS REQUIRED BEFORE APPROVAL

Applications for approval under this Ordinance will not be considered complete for processing until all other required local, state, and federal permits and licenses have been secured and evidence that they have been secured has been provided unless state or federal regulations require local approval first.

G. POSITIVE FINDINGS REQUIRED

Approval shall be granted by the Code Enforcement Officer or Planning Board, after receipt of a complete application, only upon a positive finding by the Code Enforcement Officer or Planning Board that the proposed use:

1. Is a permitted use in the district in which it is proposed to be located;
2. Is in conformance with the applicable performance standards of Section V of this Ordinance;
3. Will not result in unsafe or unhealthful conditions;
4. Will not result in undue land, water or air pollution;
5. Will not result in undue erosion or sedimentation;
6. Will avoid problems associated with development in flood hazard areas;
7. Will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;
8. Will conserve significant natural, archaeological and historical resources;
9. Will not adversely impact the public infrastructure;
10. Be consistent with the long-range goals of the Comprehensive Plan, other adopted plans of the town, and the goals and purposes of the established districts.

H. VIOLATIONS

Violations of the terms and conditions of this Ordinance shall be corrected within 30 days of receipt of Notice of Violation, unless an extension of time is granted by the Code Enforcement Officer, said violation may void all permits.

I. CERTIFICATE OF OCCUPANCY REQUIRED

A certificate of occupancy is required for activities granted approval under the provisions of this ordinance and shall be obtained from the CEO.

J. ENFORCEMENT

1. NUISANCES

Any violation of this Ordinance shall be deemed to be a nuisance.

2. CODE ENFORCEMENT OFFICER

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct the violation, including discontinuance of

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illegal use of land, buildings, structures, and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record.

3. LEGAL ACTIONS

When the above does not result in the correction or abatement of the violation or nuisance condition, the Selectmen, upon notice from the Code Enforcement Officer, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of the Ordinance in the name of the municipality.

4. PENALTIES

Any person or persons who violate any provision(s) of this Ordinance or any permit issued under the provisions of this Ordinance, shall, upon conviction in Maine District Court, be subject to civil penalties in accordance with the provisions of Title 30-A MRSA § 4452.

5. CONTRACTOR LIABILITY

Any contractor involved in any activity regulated by the provisions of this Ordinance may be held liable for violating this Ordinance if the necessary permits for said activity have not been obtained or if work performed by the contractor does not conform to all conditions of approval of the permit or the terms of this Ordinance.

K. APPEALS

1. APPEALS

The Board of Appeals shall hear appeals in accordance with the Town's Board of Appeals Ordinance.

2. VARIANCES

The Board of Appeals shall authorize variances upon appeal in accordance with the Town's Board of Appeals Ordinance.

L. FEE SCHEDULE

All applications fees for permits shall be paid to the Town of Searsport in accordance with the fee schedule as promulgated by the municipal officers upon recommendation of the planning board. Fees shall be for the cost of processing the permits and shall not be refundable regardless of the final decision to issue or deny a permit. Advertising costs, technical or legal assistance and associated costs deemed necessary by the Town for the review of applications shall be the responsibility of the applicant.

SECTION VII: DEFINITIONS

A. CONSTRUCTION OF LANGUAGE

1. In this Ordinance, certain terms or words should be interpreted as follows:

- a. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual;
- b. The present tense includes the future tense, the singular number includes the plural and plural includes the singular;
- c. The word "shall" is mandatory;
- d. The word "may" is permitted;
- e. The words "used" or "occupied" includes the words "intended", "designed", or "arranged to be used or occupied"; and
- f. The word "dwelling" includes the word "residence".

In the case of any difference or meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.

2. Terms not defined shall have the customary dictionary meaning.

B. DEFINITIONS

For the purposes of interpreting this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein.

Abutting property: Any lot which is physically contiguous with the subject lot even if only at a point, and any lot which is located directly across a street or right of way from the subject lot such that the extension of the side lot lines of the subject lot would touch or enclose the abutting property.

Access: A means of approach or entry to or exit from property.

Accessory Structure: See Structural Terms

Acre: A measure of land containing forty-three thousand, five hundred and sixty (43,560) square feet.

Adult Entertainment: Any business in any use category, of which a substantial or significant portion consists of selling, renting, leasing, exhibiting, displaying, or otherwise dealing in materials or devices of any kind which are sexually explicit or appeal to prurient interest and which depict or describe sexual activities.

Adverse Effect

Means one or more of:

- i. Impairment of the quality of the natural environment for any use that can be made of it,
- ii. Injury or damage to property or to plant or animal life,
- iii. Harm or material discomfort to any person,
- iv. An adverse effect on the health of any person,
- v. Impairment of the safety of any person,
- vi. Rendering any property or plant or animal life unfit for use by man,
- vii. Loss of enjoyment of normal use of property, and
- viii. Interference with the normal conduct of business.

Aggrieved Person: A person whose interests are damaged or adversely affected by a decision, an action, or the failure to act by the Planning Board or Code Enforcement Officer.

Agricultural Activity: Land clearing, tilling, fertilizing, including spreading and disposal of animal manure and manure sludge, liming, planting, pesticide application, harvesting of cultivated crops, pasturing of livestock and other similar or related activities, but not the construction, creation or maintenance of land management roads.

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Alteration: As applied to a building or structure, a change or rearrangement in the structural parts or in the means of egress; or an enlargement, whether by extending on a side or by increasing height; or in moving from one location or position to another.

Amateur (ham) Radio Stations: Amateur (ham) radio stations as licensed by the Federal communications Commission (FCC).

Amusement Park: A commercially operated park with a predominance of outdoor games and activities for entertainment, including motorized rides, water slides, miniature golf, batting cages, and the like.

Antenna, Accessory Use: An antenna that is an accessory use to a residential dwelling unit.

Appeal: A means for obtaining review of a decision, determination, order or failure to act pursuant to the terms of this Ordinance as expressly authorized by this Ordinance.

Attic: That part of a building that is immediately below, and wholly or partly within, the roof framing.

Automobile Sales: A lot arranged, designed, or used for the storage and display for sale of any motor vehicle and where no repair work is done except minor incidental repair of automobiles or trailers displayed and sold on the premises.

Automobile Recycling Facility: An automobile recycling business is a business which purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts, rebuilding or repairing salvage vehicles for resale, provided that 80% of the business premises specified in the site plan in Section 8.2 is used for automobile recycling operations. (See Title 30-A MRSA 3752)

Automobile Repair Service: A place where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame, or fender straightening and repair; over-all painting and undercoating of automobiles.

Basement: The substructure of a building that is partially or wholly below ground level which may or may not be used for living spaces.

Bed and Breakfast: Accommodations provided for compensation as a business in the private residence of the host family, consisting of a maximum of eight guest beds and 16 guests at any one time. Breakfast is the only meal, if any, to be provided for compensation.

Boarding Care/House: A facility for the care of individuals where meals are provided.

Buffers: Units of land, together with specified types and amounts of planting thereon and any structures which may be required between land uses to eliminate or minimize conflicts between them.

Building: A roofed structure. See Structural Terms.

Building Front Line: Line parallel to the front lot line transecting that point in the building face which is closest to the front lot line. This face includes porches whether enclosed or unenclosed but does not include steps.

Building Height: The height measured to roof ridge or peak, excluding accessories such as cupolas, steeples, etc.

Campground: Any land area specifically designed and developed, containing two or more individual campsites which accommodate that segment of the traveling public seeking temporary camping accommodations for tents, recreational vehicles and/or towed travel trailers for compensation. Accessory uses include camper services and facilities such as shower and laundry facilities, electricity, fresh water, propane and gas sales, ice, outlet for camping supplies and equipment, recreational services etc.

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Certificate of Occupancy: Official certification that a premises conforms to provisions of the Land Use Ordinance (and electrical code, plumbing code, American Disabilities Act, Life Safety 101, and NFPA 31) and may be used or occupied. Such a certificate is granted for new construction or for alteration or additions to existing structures. Unless such a certificate is issued, a structure cannot be lawfully occupied.

Change of Use: The change in the type or intensity of business use. For example, a gift shop to a restaurant is a change of use. One gift shop to another gift shop is not, provided the intensity of use is unchanged. Intensity of use is an assessment by the Planning Board of conditions such as, but not limited to, operating hours, noise, exterior lighting, amount of customer traffic, or signage.

Cluster Development: The development, according to an approved plan, of a large tract of land where three (3) or more residential buildings are constructed on lots smaller than normally required in the district where located, provided the overall density of the development of the tract does not exceed the density or requirements of the district; and land not built upon is permanently preserved as common "open space". The term also refers to a Planned Unit Development.

Code Enforcement Officer: A person appointed by the Board of Selectmen to administer and enforce this Ordinance.

Commercial: The buying or selling of goods or services or the provision of services for a fee.

Commercial Outdoor Recreation: Outdoor recreation activities that are operated by an entity other than a unit of government and which are available for use for a fee, including but not limited to standard golf courses, ice skating, tennis courts, cross-country ski trails, and alpine ski trails and the rental of non-motorized sports equipment, but excluding games and activities common to amusement parks. Private outdoor recreation facilities serving exclusively a residential use shall be considered accessory to the residential use.

Commercial Parking Facility: An area used for the parking of motor vehicles where that use is a primary use or where a separate fee is charged for the privilege of parking. The term "facility" shall also include a commercial parking lot but shall not include a commercial parking garage.

Condominium: Portions of real estate which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions under a declaration, or an amendment to a declaration and duly recorded. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. Any real estate development consisting exclusively of clustered, detached, single family residences is not a condominium, unless so designated in the declaration.

Conference Center: A building constructed for the purpose of educational and/or recreational meetings, seminars or performances.

Day Care Center: A house or place in which a person or combination of persons maintains or otherwise carries out a regular program, for consideration, for any part of a day, providing care and protection for 3 or more children under the age of 16 unrelated to the operator, not to include nursery schools, summer camps, formal public or private schools, and further defined by the Department of Human Services as follows:

Day Care Center: A Day Care Facility as defined in State statutes for 13 or more children on a regular basis; and

Day Care Home: A Day Care Facility as defined in State statutes for 3 to 12 children on a regular basis.

Developer: The legal or beneficial owner(s) of a lot or parcel of any land proposed for inclusion in a development, including the holder of an option or contract to purchase.

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District: A specified portion of the Town, delineated on the Official District Boundary Map, within which certain regulations and requirements or various combinations thereof, apply under the provisions of this Ordinance.

Drainage: The removal of surface or ground water from land by drains, grading or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development, and includes the means necessary for water-supply preservation or alleviation of flooding.

Easement: Legally binding authorization by a property owner of the use by another and for a specified purpose of any designated part of his property.

Educational Facility: Any building consisting primarily of classroom space which is used for offering courses, lectures, training seminars or other similar use, including, but not limited to, private nursery, kindergarten, elementary, middle, secondary and post secondary schools.

Emergency Operations: Emergency operations shall include operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings and livestock from the threat of destruction or injury.

Emergency Wireless Telecommunications Facility: Temporary wireless communication facilities for emergency communications by public officials.

Enlargement or To Enlarge: An "enlargement" is an addition to an existing building, an increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an existing use. To "enlarge" is to make an enlargement.

Essential Services: The construction, alteration, maintenance of gas, electrical, communication facilities, steam, fuel or water transmission or distribution systems, collection supply or disposal systems. Such systems include towers (with exception of cellular towers), poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories. These systems are exempt from definition of a structure.

Extension or To Extend: An increase in the amount of existing floor area used for an existing use within an existing building. To "extend" is to make an extension.

Family: Two (2) or more persons related by blood, marriage, adoption or guardianship, or not more than five (5) persons not so related occupying a dwelling unit and living as a single housekeeping unit; such a group to be distinguished from a group occupying a boarding house, lodging house, club, or fraternity, or hotel.

Fast Food Restaurant: A facility where food and/or beverages are (1) primarily intended for immediate consumption, (2) available upon a short waiting period, (3) served over the counter rather than at table, and/or (4) prepackaged or presented in such a manner that the food and/ or beverage can be readily eaten off the premises where sold. For the purposes of the Ordinance, a fast food restaurant shall not be considered an accessory use even if subordinate to another use.

Fire Station: A building constructed for the purpose of housing municipal fire equipment and related items for fire protection and prevention.

Flea Market: An outdoor market selling antiques, used household goods, curios, and the like, at a frequency of four or more days in any six-month period.

Garage, Residential: An accessory building for parking or temporary storage of automobiles of residential occupants of the premises, or a part of the residence usually occupying the ground floor area of principal one-or-two family dwellings. Not more than one (1) space may be regularly used by the private passenger automobile of a person who is not a resident of the premises.

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Garage Sales/Yard Sales: Garage sales shall mean and include all sales entitled “garage sale”, “lawn sale”, “porch sale”, “attic sale”, “rummage sale”, or any similar casual sale of tangible personal property which is advertised by any means or is made evident by articles being set out in a yard, porch, or garaged whereby the public at large is/can be made aware of such sale.

Golf Course: An outdoor area laid out for the purpose of playing the game of golf, including golf-related and appurtenant structures and uses. This definition excludes miniature golf courses and golf driving ranges (see "Recreation Facility").

Grandfathering: The continued allowed use of any building, structure, or parcel of land which is made non-conforming by reason of the enactment of this Ordinance, or which shall be made non-conforming by reasons of a subsequent amendment.

Grocery Store: An establishment retailing food and related commodities.

Guest Room: A room in a hotel, motel, tourist home or "bed and breakfast" residence offered to the public for compensation in which no provision is made for cooking.

Highway: Any public way.

Home Occupation: A business, profession, occupation, or trade conducted for gain or support and located within a residential building and/or a structural accessory thereto, or on the land, which use is accessory to the use of the building for dwelling purposes, and does not significantly change the residential character or appearance of such building.

Home Rule: Any municipality, by the adoption, amendment or repeal of ordinances or bylaws, may exercise any power or function which the Legislature has power to confer upon it, which is not denied either expressly or by clear implication, and exercise any power or function granted to the municipality by the Constitution of Maine, general law, or charter.

Hospital: An institution providing health services, primarily for in-patients, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities and staff offices.

Hotel: An establishment that provides lodging and usually meals, entertainment and various personal services for the public.

Industry: Use of a premises for assembling, fabricating, finishing, manufacturing, packaging, or processing. These include but are not limited to assembly plants, laboratories, power plants, pumping stations, repair shops and the extraction of minerals.

In-Law: A caregiver or caretaker; a parent or grandparent, child or grandchild or individuals related by blood marriage or adoption.

In-Law Apartments: See “Structural Terms”

Inn: An establishment for lodging and entertaining of travelers.

Institutional: A building or use devoted to some public, governmental, educational, charitable medical or similar use.

Intermodal: The shipment of cargo involving more than one mode of transportation.

Junkyards:

Automobile Graveyards: A yard, field or other area used as a place of storage for three (3) or more unserviceable, discarded, worn-out or junked automobiles or parts of such vehicles. Automobile graveyard includes areas used for automobile dismantling, salvage and recycling operations. Automobile graveyard does not include any area used for temporary storage by an establishment or place of business which is primarily engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable.

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Junkyard: A yard, field or other area used as a place of storage for discarded worn-out or junked plumbing, heating supplies, household appliances, furniture, scrap and junked lumber, old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and scrap iron, steel and other ferrous and non-ferrous material including garbage dumps, waste dumps and sanitary landfills.

Kennel, Commercial: Any place in or at which any number of dogs or cats are kept for the purpose of sale or in connection with boarding, care, training or breeding, for which a fee is charged.

Kennel, Non-Commercial: An accessory building to a residence designed or used for the accommodation of dogs or cats owned by the occupants of the residence.

Land Use Permit: A permit for proposed land use activity as defined in this Ordinance and issued by the Planning Board or Code Enforcement Officer in accordance with the provisions of this Ordinance.

Light Manufacturing: The fabrication or processing of materials into a finished product. Fabrication relates to the stamping, cutting or otherwise shaping of the processed materials into objects/products. Light manufacturing does not include the refining or other initial processing of basic raw materials such as metal ore, lumber or rubber.

Loading Space: An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

Lot: A parcel of land undivided by any street or public road and occupied by, or designated to be developed for, one (1) building or principal use and the accessory buildings or uses incidental to such building, use or development, including such open spaces and yards as are designed, and arranged or required by this Ordinance for such building, use or development.

Lot Area: The area contained within the boundary lines of a lot.

Lot, Corner: A lot abutting two or more streets at their intersection.

Lot Depth: The mean horizontal distance between the front and rear lot lines measured within the lot boundaries.

Lot Frontage: Lot width measured at the street lot line. When a lot has more than one street lot line, lot width shall be measured, and the minimum lot width required by the Ordinance shall be provided, on at least one street.

Lot Line: A line bounding a lot which divides one lot from another, or from a street or any other public or private space, as defined below:

Front Lot Line: In the case of a lot abutting only one street, the street line separating such lot from such street; in the case of a double frontage lot, each street line separating such lot from a street shall be considered to be the front lot line, except where the rear yard requirement is greater than the front yard requirement in which case one of two opposing yards shall be a rear yard. In the case of a lot with no road frontage, the front lot line shall be considered to be the lot line in front of the building.

Rear Lot Line: That lot line which is parallel to and most distant from the front lot line of the lot; in the case of an irregular, triangular, or gore-shaped lot, a line twenty (20) feet in length, entirely within the lot, parallel to and at the maximum possible distance from, the front lot line shall be considered to be the rear lot line. In the case of lots that have frontage on more than one road or street, the rear lot line shall be opposite the lot line along which the lot takes access to a street.

Side Lot Line: Any lot line other than a front or rear lot line.

Lot of Record: Any validly recorded lot that at the time of its recordation complied with all applicable laws, ordinances, and regulations.

Land Use Ordinance of the Town of Searsport

Lot Standards: The combination of controls that establishes the maximum size of a building and its location on the lot. Components of lot standards, also known as "space and bulk" regulations in size and height of building; location or exterior walls at all levels with respect to lot lines, streets and other buildings; building coverage; gross floor area of buildings in relation to lot area; open space (yard) requirements; and amount of lot area provided per dwelling unit.

Lumberyard/Sawmill: A permanent facility having regular business hours, sawlog specifications and price list; sells lumber wholesale and/or retail at the site.

Manufactured Housing: A structural unit or units designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on an independent chassis, to a building site.

For the purposes of this Ordinance, three (3) types of manufactured housing will be referred to:

1. **NEWER MOBILE HOME:** Those units constructed after June 15, 1976, which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards and complies with the Manufactured Housing Construction and Safety Standards Act of 1974, et. seq., which in the traveling mode are 14 body feet or more in width and are 750 or more square feet and are constructed on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation;
2. **OLDER MOBILE HOMES:** Those units constructed before June 15, 1976, and not in compliance with the Manufactured Housing Construction and Safety Standards Act of 1974, which are constructed on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, but does not include those smaller units commonly called "travel trailers"; and
3. **MODULAR HOMES:** Those units which the manufacturer certifies are constructed in compliance with the State's manufactured Housing Act and regulations, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and area designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical systems contained herein.

Marina: A business establishment having frontage on navigable water within the Town and providing for hire off-shore mooring or docking facilities for boats and accessory services and facilities such as: boat sales, rental and storage, marine supplies and equipment, marina engine and hull repairs, construction and outfitting for pleasure craft, fuel and oil, electricity, fresh water, ice, shower and laundry facilities and on-premise restaurant.

Marine Activity: Construction including but not limited to piers, docks, wharves, breakwaters, causeways, marinas and bridges over 20 feet in length.

Marine Railways: A parallel set of rails running from a marine related facility to the water for the purposes of launching, repairing, and retrieving boats and vessels onto land to which said set of rails is connected.

Medical Clinic: An office building used by members of the medical profession for the diagnosis and outpatient treatment of human ailments.

Mineral Extraction: The removal of sand, gravel, bedrock or soil from its natural site of geologic deposition or formation; the screening, sorting, crushing or other processing of any part of the geologic material so removed; the storage of sand, gravel, crushed stone, or soil in stock piles or other forms.

Mobile Home Park: A parcel of land under unified ownership approved by the Town of Searsport for the placement of three (3) or more manufactured homes.

Motel: An establishment that provides lodging and parking and in which rooms are accessible from an outdoor parking area.

Land Use Ordinance of the Town of Searsport

Motor Vehicle: Every vehicle that is self-propelled and designed for carrying persons or property or which is used for the transportation of persons and not operated exclusively on tracks.

Motor Vehicle, Unserviceable: Any motor vehicle which is wrecked, dismantled, cannot be operated legally on any public highway, or which is not being used for the purposes for which it was manufactured.

Municipal Facilities: Buildings or land that is owned by a Public entity and operated under its supervision for a public purpose.

Non-Conforming Use: See USE TERMS

Normal High-water Line: That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly terrestrial land. In the case of wetlands adjacent to rivers and great ponds, the normal high water line is the upland edge of the wetland, and not the edge of the open water.

Normal Maintenance and Repair: Any work necessary to maintain an improvement or structure in its original or previously improved state or condition. Normal maintenance and repair shall not include reconstruction, change in design, change in structure, change in use, change in location, change size or capacity.

Nuisance: A person, structure or act that causes harm, annoyance or inconvenience; any violation of this Ordinance.

Nursing Home: A facility where maintenance and personal or nursing care are provided for persons who are unable to care for themselves.

Owner: The person or persons having the right of legal title to, beneficial interest in, or a contractual right to purchase a lot or parcel of land.

Parcel: The entire area of a tract of land before being divided by a development.

Parking Lot: An open area other than a street used for the parking of more than two automobiles and available for public use whether free, for compensation, or an accommodation for clients or customers.

Parking Space: An enclosed or unenclosed area, sufficient in size to store one automobile together with a driveway connecting the parking space with a street, road or alley and permitting ingress and egress of that automobile without the necessity of moving any other automobile.

Party: The applicant(s), his or her authorized agent, all abutting property owners, and such other individuals or organizations as the Planning Board, at its discretion, finds to have a reasonable and identifiable interest in the proposed project.

Passive Recreation: Includes walking, hiking, and biking, and other similar activities. Passive Recreation specifically excludes motorized vehicles and equipment.

Performance Standard: A criterion established to control the use of land and structures. The purpose of performance standards is to provide detailed regulations and restrictions by means of minimum criteria which must be met by users in order to protect neighbors from adverse impacts of adjoining land uses and to protect the general health, safety and welfare of citizens of Searsport.

Persons: Any person, firm, association, partnership, corporation, municipal or other local government entity, quasi-municipal entity, educational or charitable organization or institution or legal entity.

Professional Office: An office of a professional such as an architect, accountant, dentist, doctor of medicine, lawyer, etc., but not including any manufacturing, commercial or industrial activity.

Radio Station: An establishment engaged primarily in the use of electromagnetic waves for the wireless transmission of electric impulses into which sound is converted for the purposes of entertainment, education, news or weather.

Land Use Ordinance of the Town of Searsport

Recreation Facility: A place designed and equipped for the conduct of sports and/or leisure time activities including regulation size miniature golf courses and driving ranges, water slides, outdoor amusement centers, spectator sports facilities, race tracks or other similar facilities.

Research and Development Establishment: An establishment in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the establishment.

Restaurant: An establishment whose principal business is the sale of food and/or beverages to consumers in a ready-to-consume state, and whose principal method of operation includes one or both of the following characteristics:

1. Customers normally provided with an individual menu, are served their food and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed; or
2. A cafeteria type operation where food and beverages generally are consumed within the restaurant building.

Retail Establishment: Any business, housed in a permanent structure, engaged primarily in the sale or resale of goods and services to the consumer.

Road: A thoroughfare or way consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

Private Road: A thoroughfare or way designated for private use and maintained by a property owner or group of property owners.

Public Road: A public thoroughfare, way, or easement permanently established for passage of persons or vehicles.

Sawmill: See **Lumberyard/Sawmill**

Setback: The minimum distance from any lot line to the nearest part of a structure.

Sexually Explicit: The displaying or depiction of sex organs during actual or simulated sexual intercourse or sexual acts as defined in 17-A M.R.S.A. Section 251.

Sign Items: Device, model, banner, pennant, insignia, flag, or other representation, which is used as, or is in the nature of an advertisement, announcement or direction.

Signs:

Free Standing: A sign supported by one or more uprights or braces permanently affixed into the ground.

Portable: A sign not designed or intended to be permanently affixed into the ground or to a structure.

Roof: A sign that is attached to a building and is displayed above the eaves of such building.

Temporary: A sign of a temporary nature, erected less than ninety (90) days, exemplified by the following: political poster, charitable signs, construction signs, carnival signs, garage sale signs, lawn sale signs, rummage sale signs, and all signs advertising sales of personal property, and for rent signs.

Wall: Any sign painted on, or attached parallel to, the wall surface of a building and projecting there from not more than six (6) inches.

Window: Any on-premise, non-temporary sign visible from the exterior of the building or structure which is permanently painted, attached, glued, or otherwise affixed to a window.

Area of a Sign: The exposed surface of the sign including all ornamentation, embellishment, background, and symbols.

Land Use Ordinance of the Town of Searsport

Sporting Cabin(s): A series of cottages or structures that provide lodging for the public typically associated with a sporting or nature activity.

Structural Terms:

Building: Any structure having a roof or partial roof, supported by columns or walls, used for the shelter or enclosure of persons, animals, goods or property of any kind. This term is inclusive of any use thereof. Where independent units with separate entrances are divided by walls, each unit is a building.

Building, Accessory Structure: A building which (1) is subordinate in area, extent and purpose to the principal building or use served, (2) is located on the same lot as the principal building or use served except as otherwise expressly authorized by the provisions of this Ordinance, and (3) is customarily incidental to the principal building or use. Any portion of a principal building devoted or intended to be devoted to an accessory use is not an “accessory building”.

Building, Principal: A building (structure) in which is conducted or in which is intended to be conducted, the main or primary use of the lot on which it is located.

Dwelling: A building or portion thereof, used exclusively for residential occupancy, including single-family, two-family and multiple family dwellings.

Dwelling Unit/Apartment: A room or group of rooms designed and equipped exclusively for use as living quarters for only one (1) family, including provisions for living, sleeping, cooking and eating.

Dwelling, Single Family Detached: A dwelling designed for and occupied by not more than one (1) family and having no roof, wall or floor in common with any other dwelling unit. The term shall include manufactured and prefabricated homes.

Dwelling, Two Family: A detached or semi-detached building used for residential occupancy by two (2) families living independently of each other.

Dwelling, Multiple Family: A building or portion thereof used for residential occupancy by three (3) or more families living independently of each other and doing their own cooking in the building, including apartments, group houses and row houses.

In-Law Apartment: The portion of a home, with or without separate entrance, plumbing and cooking facilities which serves the purpose of providing living space to relatives or caretakers of the people residing in the principal dwelling.

Structure: Anything constructed or erected, except a boundary wall or fence, the use of which requires permanent location on, above or below the surface of the land, including a patio or deck.
(See Essential Services)

Subdivision – see “Subdivision Ordinance for the Town of Searsport, Maine.”

Take-Out Food Service: The sale of prepared food and/or beverages by an establishment whose space is devoted principally to the sale of groceries, including grocery stores, bakeries, wine and cheese stores, and similar establishments that sell food for use in the home. For the purposes of this Ordinance, such sale of prepared food and/or beverages shall be considered accessory to the principal use.

Temporary Wireless Telecommunications Facility: A temporary wireless communications facility that is in operation for a maximum period of one hundred (180) days.

Tradesman’s Shop: The shop of a self-employed craftsman or person in a skilled trade.

Transient: A non-resident person residing within the Town of Searsport less than thirty (30) days.

Land Use Ordinance of the Town of Searsport

Tower: A building or structure typically higher than its diameter and high relative to its surroundings that may stand apart or be attached to a larger structure and that may be fully walled in or of skeleton framework.

Use: The purpose or activity for which land or any building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

Accessory Use: A use subordinate to a permitted use located on the same lot, and related to the permitted use.

Principal Use: The specific primary purpose for which land is used.

Conforming (Permitted) Use: A use that may be lawfully established in a particular district, provided it conforms to all the requirements, standards and regulations of such district.

Non-Conforming Use: A use that does not conform to the provisions of this Ordinance.

Open Space Use: A use that does not disturb the existing state of the land except to restore this land to a natural condition.

Variance: A relaxation of the terms of this Ordinance where such a variance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship.

Warehouse and Storage Facility: A commercial structure for the storage of personal items merchandise or commodities, including bulk storage and bulk sales outlet.

Water-Dependent Uses: Those uses that require, for their primary purpose, location, on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include, but are not limited to: commercial and recreational fishing and boating facilities, fin-fish, and shellfish processing, fish storage and retail and wholesome marketing facilities, waterfront dock and port facilities, shipyards, boat yards, and boat building facilities, marinas, navigation aides, basins and channels, industrial uses dependent upon water borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to marine or tidal waters.

Windmill: a mill powered by the wind usually acting on oblique vanes or sails that radiate from a horizontal shaft.

Windmills, Commercial: Wind Energy Systems that produce energy for sale, not personal use or credit.

Wholesale Business Establishment: Any business, housed in a permanent structure, engaged in the sale of goods in large amounts to retailers or jobbers, rather than directly to consumers.

Yard: The area of land on a lot not occupied by buildings.

Front Yard:

The open, unoccupied space on the same lot with the principal building between the front lot line and nearest part of any building on the lot, and extending the entire width of the lot.

Rear Yard:

The open, unoccupied space on the same lot with the principal building between a rear lot line and the nearest part of any building on the lot, and extending the entire width of the lot.

Side Yard:

The open, unoccupied space on the same lot with the principal building between a side lot line and the nearest part of any building on the lot, extending from the front yard to the rear yard.

Land Use Ordinance of the Town of Searsport














I, Deborah Plourde, the duly appointed Town Clerk for the Town of Searsport, hereby certify pursuant to 30-A M.R.S.A. § 3006 that the above is the true and accurate Land Use Ordinance as enacted by the voters of the Town of Searsport at a duly called Town Meeting held on March 10, 2012.

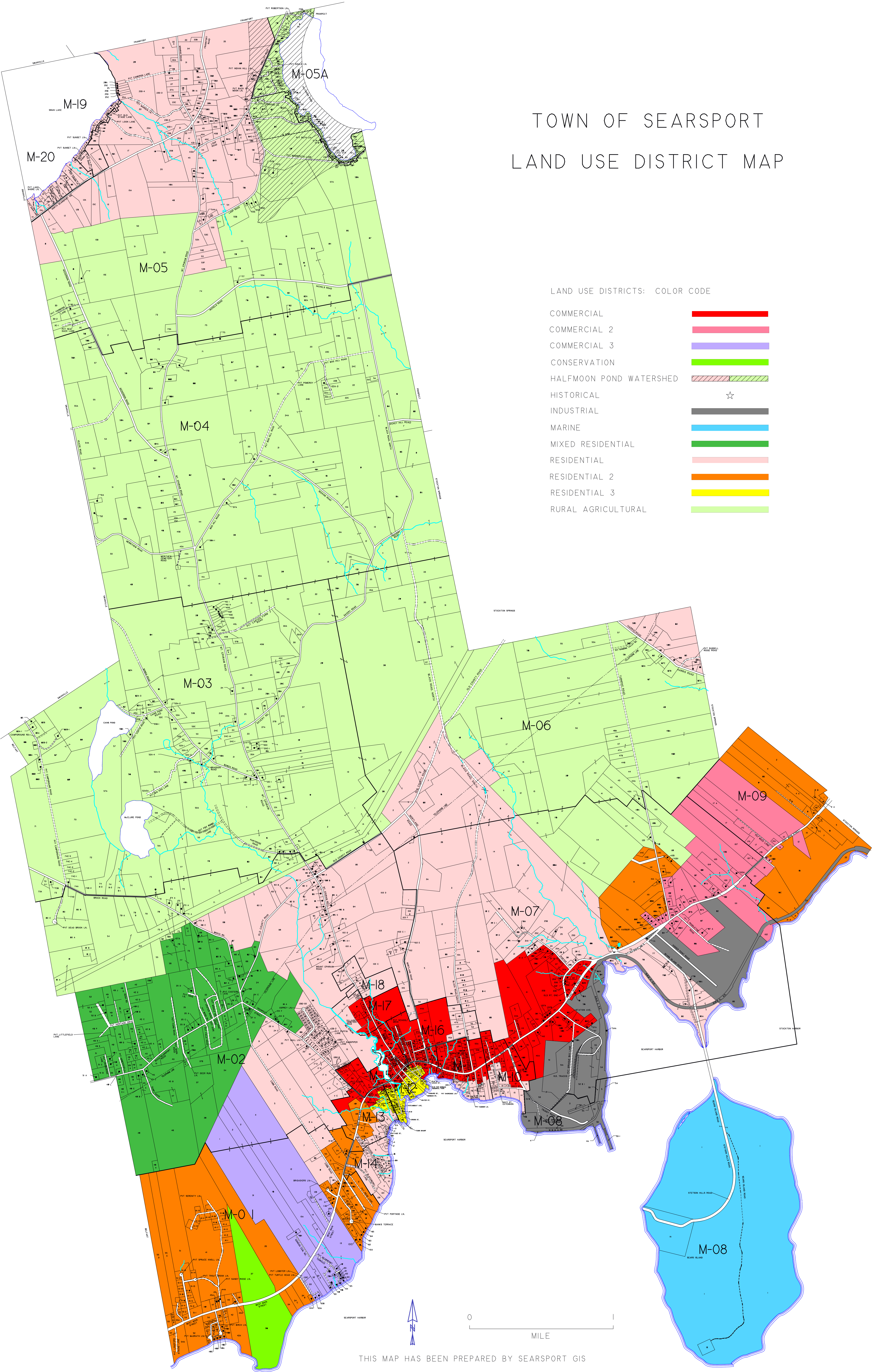
3/13/2012
Date

Deborah Plourde
Deborah Plourde, Town Clerk

TOWN OF SEARSPORT LAND USE DISTRICT MAP

LAND USE DISTRICTS: COLOR CODE

COMMERCIAL	
COMMERCIAL 2	
COMMERCIAL 3	
CONSERVATION	
HALFMOON POND WATERSHED	
HISTORICAL	
INDUSTRIAL	
MARINE	
MIXED RESIDENTIAL	
RESIDENTIAL	
RESIDENTIAL 2	
RESIDENTIAL 3	
RURAL AGRICULTURAL	



THIS MAP HAS BEEN PREPARED BY SEARSPORT GIS
MARCH 7, 2009:
APPROVED BY ARTICLE 19 AS THE OFFICIAL
LAND USE DISTRICT MAP OF THE SEARSPORT
COMPREHENSIVE PLAN

Subdivision Ordinance of the Town of Searsport

Adopted March 5,2011

Subdivision Ordinance of the Town of Searsport

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ARTICLE 1 - AUTHORITY AND ADMINISTRATION

1.1 Authority.

- A. These standards have been prepared in accordance with the provisions of Title 30-A M.R.S.A., §4403.
- B. These standards shall be known and may be cited as "Subdivision Regulations of the Town of Searsport, Maine."

1.2 Administration.

- A. The Planning Board of the Town of Searsport, hereinafter called the Board, shall administer this ordinance.
- B. The provisions of this ordinance shall pertain to all land and buildings proposed for subdivision within the boundaries of the Town of Searsport.

1.3 Amendments.

- A. This ordinance may be amended by the Legislative Body of the Town of Searsport.
- B. A public hearing shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided at least seven days in advance of the hearing.

ARTICLE 2 - PURPOSES AND STATUTORY REVIEW CRITERIA

2.1 Purposes. The purposes of this ordinance are:

- A. To provide for an expeditious and efficient process for the review of proposed subdivisions;
- B. To assure new development in the Town of Searsport meets the goals and conforms to the policies of the Searsport Comprehensive Plan and the Searsport Land Use Ordinance.
- C. To assure the comfort, convenience, safety, health and welfare of the people of the Town of Searsport;
- D. To protect the environment and conserve the natural and cultural resources identified in the Searsport Comprehensive Plan and Land Use Ordinance as important to the community;
- E. To assure that a minimal level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures;
- F. To minimize the potential impacts from new subdivisions on neighboring properties and on the municipality; and
- G. To promote the development of an economically sound and stable community.

2.2. Statutory Review Criteria: When reviewing any application for a subdivision, as defined by Article 3, the Review Authority shall find that the following criteria as found in Title 30-A M.R.S.A. §4404 have been met, as well as all applicable provisions of the Land Use Ordinance and other sections of this Ordinance have been met, before granting approval. The proposed project:

- A. Will not result in undue water or air pollution. In making this determination, it shall at least consider:
 - 1. The elevation of the land above sea level and its relation to the flood plains;
 - 2. The nature of soils and subsoils and their ability to adequately support waste disposal;
 - 3. The slope of the land and its effect on effluents;
 - 4. The availability of streams for disposal of effluents; and
 - 5. The applicable State and local health and water resources rules and regulations;
- B. Has sufficient water available for the reasonably foreseeable needs of the subdivision;
- C. Will not cause an unreasonable burden on an existing water supply, if one is to be used;
- D. Will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;
- E. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision

requires driveways or entrances onto a state or state aid highway, located outside the urban compact area of an urban compact municipality, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;

- F. Will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;
- G. Will not cause an unreasonable burden on the municipality's ability to dispose of solid waste if municipal services are to be utilized;
- H. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
- I. Is in conformance with a duly adopted subdivision ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;
- J. The developer has adequate financial and technical capacity to meet the standards of this section.
- K. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, sections 435 through 490, or within 250 feet of tidal waters, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
 - 1. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.
 - (a) To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.
 - (b) The frontage and set-back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 38, chapter 3, subchapter I, article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of section 4401, subsection 1, on September 23, 1983;
- L. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water
- M. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the

subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision or project plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

- N. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;
- O. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;
- P. The proposed subdivision will provide for adequate storm water management;
- Q. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;
- R. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision;
- S. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.
- T. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, M.R.S.A section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Bureau notifies the Planning Board that it will not provide assistance, the Board may require a subdivision applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, M.R.S.A section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership.

ARTICLE 3 - DEFINITIONS

In general, words and terms used in these regulations shall have their customary dictionary meanings. More specifically, any word or term defined in the Searsport Land Use Ordinance shall have the definition contained in that ordinance, unless defined differently below; other words and terms used herein are defined as follows:

Affordable Housing: Housing units which will meet the sales price and/or rental targets established by the comprehensive plan for housing affordability.

Applicant: The person applying for subdivision approval under these regulations.

Average Daily Traffic (ADT): The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

Buffer Area: Refer to the Searsport Land Use Ordinance, under "Buffers".

Capital Improvements Program (CIP): The municipality's proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

Capital Investment Plan: The portion of the comprehensive plan that identifies the projects for consideration for inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.

Cluster Subdivision: Refer to the Searsport Land Use Ordinance.

Common Open Space: Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by these regulations unless waived, after the applicant's written request, by a vote by the Board. The Board shall issue a written statement to the applicant upon its determination that an application is complete.

Complete Substantial Construction: The completion of a portion of the improvements which represents no less than thirty percent of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

Comprehensive Plan: A document or interrelated documents adopted by the Legislative Body, containing the elements established under Title 30-A M.R.S.A. §4326 sub-§§ 1 to 4, including the strategies for an implementation program which are consistent with the State goals and guidelines established under Title 30-A M.R.S.A. §§4311 through 4350.

Conservation Easement: A nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

Density: The number of dwelling units per acre of land.

Developed Area: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

Direct Watershed of a Great Pond: That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond. For the purposes of these regulations, the watershed

boundaries shall be as delineated in the comprehensive plan, or as depicted in the drainage divide data layer provided by the Maine Office of GIS. Due to the scale of the map there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant can not agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a professional land surveyor showing where the drainage divide lies.

Driveway: A vehicular accessway serving two lots or less.

Dwelling Unit: Refer to the Searsport Land Use Ordinance, under "Structural Terms".

Engineered Subsurface Waste Water Disposal System: A subsurface waste water disposal system designed, installed, and operated as a single unit to treat and dispose of 2,000 gallons of waste water per day or more; or any system designed to be capable of treating waste water with higher BOD5 and total suspended solids concentrations than domestic waste water.

Final Plan: The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, may be recorded at the Registry of Deeds.

Freshwater Wetland: Areas which are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and are not part of a great pond, coastal wetland, river, stream or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

Great Pond: Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has surface area in excess of thirty acres, except for the purposes of these regulations, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

High Intensity Soil Survey: A map prepared by a Certified Soil Scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to a limiting factor such as seasonal high water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

100-Year Flood: The highest level of flood that, on the average, has a one percent chance of occurring in any given year.

High Water Mark, Coastal Waters: See DEP Chapter 1000 Minimum Guidelines for Municipal Shoreland Zoning Ordinances.

High Water Mark, Inland Waters: See DEP Chapter 1000 Minimum Guidelines for Municipal Shoreland Zoning Ordinances.

Level of Service: A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the *Highway Capacity Manual*, most recent edition, published by the National Academy of Sciences, Transportation Research Board. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

Multifamily Development: Refer to the Searsport Land Use Ordinance.

Municipal Engineer: Any registered professional engineer hired or retained by the municipality, either as staff or on a consulting basis.

Net Residential Acreage: The total acreage available for the subdivision, as shown on the proposed subdivision plan, minus the area for streets or access and the areas that are unsuitable for development as outlined in Article 10.

Net Residential Density: The average number of dwelling units per net residential acre.

New Structure or Structures: Includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure.

Person: Includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

Planning Board: The Planning Board of the Town of Searsport..

Preliminary Plan: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

Professional Engineer: A professional engineer, registered in the State of Maine.

Public Water System: A water supply system that provides water to at least 15 service connections or services water to at least 25 individuals daily for at least 30 days a year.

Recording Plan: An original of the Final Plan, suitable for recording at the Registry of Deeds and which need show only information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

Reserved Affordable Housing: Affordable housing which is restricted by means of deed covenants, financing restrictions, or other binding long term methods to occupancy by households making 80% or less of the area median household income.

Sight Distance: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in these regulations as a reference for unobstructed road visibility.

Sketch Plan: Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval.

Street: Refer to the Searsport Land Use Ordinance, under "Road".

Street Classification:

- Arterial Street:** A major thoroughfare which serves as a major traffic way for travel between and through the municipality. The following roadways shall be considered arterial streets:
- Collector Street:** A street with average daily traffic of 200 vehicles per day or greater, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.
- Cul-de-sac:** A street with only one outlet and having the other end for the reversal of traffic movement.
- Industrial or Commercial Street:** Streets servicing industrial or commercial uses.
- Minor Residential Street:** A street servicing only residential properties and which has an average daily traffic of less than 200 vehicles per day.
- Private Right-of-Way:** A minor residential street servicing no more than eight dwelling units, which inot intended to be dedicated as a public way.

Subdivision: The term shall be defined as in Title 30-A M.R.S.A. §4401, sub-§4, as amended. A subdivision is the division of a tract or parcel of land into three or more lots within any five year period, which period begins on the effective date of this document, whether accomplished by sale, lease, development, buildings, or otherwise. The following shall not be considered to create lots for the purpose of this document: a division accomplished by devise, condemnation, order of tthe court,, gift to a person related to the donor by blood (limited to mother, father, son daughter, brother or sister), marriage, adoption, unless the intention of such a gift is to avoid the objectives of this document; or by transfer of any interest in land to the owner off land abutting thereon.

A dividing of lots shall be exempted herein if a third lot is created by a subdivider who shall have retained one of the lots for his or her own use as a single family residence for a period of at least five years prior to such dividing.

Tract or Parcel of Land: Contiguous land in the same ownership, provided that lands located on the opposite sides of a publicly owned road shall be considered each a separate tract or parcel of land.

Usable Open Space: That portion of the common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding 10%.

ARTICLE 4 - ADMINISTRATIVE PROCEDURE

In order to establish an orderly, equitable and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare a written agenda for each regularly scheduled meeting. The agenda shall be prepared no less than one week in advance of the meeting, distributed to the Board members and any applicants appearing on the agenda, and posted at the municipal offices. Applicants shall request to be placed on the Board's agenda at least fourteen (14) days in advance of a regularly scheduled meeting by contacting the Chairperson. Applicants who attend a meeting but who are not on the Board's agenda may be heard only after all agenda items have been completed, and then only if a majority of the Board so votes. However, the Board shall take no action on any application not appearing on the Board's written agenda.

ARTICLE 5 - SKETCH PLAN MEETING AND SITE INSPECTION

5.1 Purpose.

The purpose of the sketch plan meeting and on-site inspection is for the applicant to present general information regarding the proposed subdivision to the Board and receive the Board's comments prior to the expenditure of substantial sums of money on surveying, soils identification, and engineering by the applicant.

5.2 Sketch Plan Meeting Procedure.

- A. The applicant shall present the Preapplication Sketch Plan and make a verbal presentation regarding the site and the proposed subdivision.
- B. Following the applicant's presentation, the Board may ask questions, point out potential problems or issues for future discussions, and make suggestions to be incorporated by the applicant into the subsequent application. Substantive, lengthy discussions about compliance with review standards or the consideration of waiver requests shall be postponed until the subsequent review of the full application.
- C. The date of the on-site inspection is selected.

5.3 Sketch Plan Submissions.

Ten (10) copies of the sketch plan and all supporting materials must be submitted fourteen (14) days prior to a regularly scheduled Planning Board meeting, in order to be placed on the Board's agenda. The sketch plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The sketch plan, which does not have to be engineered and may be a freehand penciled sketch, shall show site conditions such as steep slopes, wet areas and vegetative cover in a general manner. The sketch plan shall be supplemented with a written project narrative, with general information to describe or outline the existing conditions of the site and a description of the proposed development. The narrative should include general proposals for how any common areas and infrastructure will be managed and maintained. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located. The sketch plan shall be accompanied by:

- A. A sketch plan application fee, which will be the amount established by the Searsport Board of Selectmen.
- B. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision; unless the proposed subdivision is less than 10 acres in size.
- C. A copy of that portion of the Waldo County Soil Survey covering the proposed subdivision, showing the outline of the proposed subdivision development, and
- D. A written project narrative as described above.

5.4 Contour Interval and On-Site Inspection.

Within thirty days of the sketch plan meeting, the Board may hold an on-site inspection of the property and inform the applicant in writing of the required contour interval on the Preliminary Plan. The applicant shall place "flagging" at the centerline of any proposed streets, and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection. If the proposed project includes buildings, the approximate corners of building footprints shall be "flagged." The

Board may choose not to conduct on-site inspections when there is inclement weather or snow on the ground. On-site inspections shall be noticed as required by 1 M.R.S.A. §§401-410, and the public shall be allowed to accompany the Board. Minutes shall be taken in the same manner as for regular meetings.

5.5 Rights Not Vested.

The sketch plan meeting, the submittal or review of the sketch plan or the on-site inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1 M.R.S.A., §302.

5.6 Establishment of File.

Following the sketch plan meeting the Board shall establish a file for the proposed subdivision. All correspondence and submissions regarding the sketch plan meeting shall be maintained in the file.

ARTICLE 6 - PRELIMINARY PLAN APPLICATION

6.1 Procedure.

- A. Within six months after the on-site inspection by the Board, the applicant shall submit an application for approval of a preliminary plan at least 14 days prior to a scheduled meeting of the Board. Applications shall be submitted by mail or by hand to the municipal offices. Failure to submit an application within six months shall require resubmission of the Sketch Plan to the Board. The preliminary plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
- B. All applications for preliminary plan shall be accompanied by a nonrefundable application fee in an amount equal to fee schedule established by the Searsport Board of Selectmen, and payable by check to the municipality. In addition, the applicant shall pay an escrow fee of \$250 per lot or dwelling unit, to be deposited in a special escrow account designated for that subdivision application, to be used by the Board for hiring independent consulting services to review engineering and other technical submissions associated with the application, and to ensure compliance with the Zoning Ordinance and Subdivision Regulations. If the balance in this special account is drawn down by 75%, the Board shall notify the applicant, and require that the balance be brought back up to the original deposit amount. The Board shall continue to notify the applicant and require a deposit as necessary whenever the balance of the escrow account is drawn down by 75% of the original deposit. Any balance in the escrow account remaining after a decision on the final plan application by the Board shall be returned to the applicant.
- C. The Board shall not review any preliminary plan application unless the applicant or applicant's representative attends the meeting. Should the applicant or applicant's representative fail to attend, the Board shall reschedule review of the application at its next regular meeting.
- D. Within three days of the receipt of the Preliminary Plan application, the Board, or its designee, shall:
 - 1. Issue a dated receipt to the applicant.
 - 2. Notify in writing by First Class Mail all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project. A fee for notification of abutters will be \$5 per abutter.
 - 3. Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
- E. Within thirty days of the receipt of the preliminary plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
- F. Upon determination that a complete application has been submitted for review, the Board shall notify the applicant in writing. The Board shall also notify the Road Commissioner, Fire Chief and Superintendent of Schools of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multifamily, commercial or industrial buildings. The Board shall request that these officials comment upon the adequacy of their

department's existing capital facilities to service the proposed subdivision. The Board shall determine whether to hold a public hearing on the preliminary plan application.

- G. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining that it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing. In addition, the notice of the hearing shall be posted in at least three prominent places within the municipality at least seven days prior to the hearing. A copy of the notice shall be sent by First Class mail to abutting landowners and to the applicant, at least ten days prior to the hearing.
- H. Within thirty days from the public hearing or within sixty days of determining a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the preliminary plan application. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.
- I. When granting approval to a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:
1. The specific changes which it will require in the final plan;
 2. The character and extent of the required improvements for which waivers may have been requested and which the Board finds may be waived without jeopardy to the public health, safety, and general welfare; and
 3. The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the final plan.
- J. Approval of a preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval by the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the final plan, the Board may require that additional information be submitted and changes in the plan be made as a result of further study of the proposed subdivision or as a result of new information received.

6.2 Mandatory Submissions for Preliminary Plan.

The following items shall be submitted as part of the Preliminary Plan Application, unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Planning Board, pursuant to Article 12. Ten (10) copies of all materials shall be delivered to the Town Office, at least 14 days prior to a regularly scheduled Planning Board meeting, in order for the application to be placed on the Board's agenda. The Board may require additional information to be submitted, as necessary, in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.

A. Application Form.

Ten (10) copies of the application form and any accompanying information.

B. Location Map.

The location map shall be drawn at a size adequate to show the relationship of the proposed

subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The location map shall show:

1. Existing subdivisions in the proximity of the proposed subdivision.
2. Locations and names of existing and proposed streets.
3. Boundaries and designations of zoning districts.
4. An outline of the proposed subdivision and any remaining portion of the owner's property if the preliminary plan submitted covers only a portion of the owner's entire contiguous holding.

C. Preliminary plan. The preliminary plan may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch, provided all necessary detail can easily be read. The application materials for preliminary plan approval shall include the following information.

1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
2. Verification of right, title or interest in the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest.
3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The entire parcel or tract shall be shown, including all contiguous land in common ownership within the last five years, as required by Title 30-A M.R.S.A. section 4401.
4. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
5. A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
6. An indication of the type of sewage disposal to be used in the subdivision.
 - a. When sewage disposal is to be accomplished by connection to the public sewer, a letter from the Searsport Sewer District stating the district has the capacity to collect and treat the waste water shall be provided.
 - b. When sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses, prepared by a Licensed Site Evaluator or Certified Soil Scientist shall be provided. A Surface Wastewater Disposal System Application: HHE-200, shall be required. A map showing the location of all test pits dug on the site shall be submitted.
 - c. Where public sewer is available, it must be used.
7. An indication of the type of water supply system(s) to be used in the subdivision.
 - a. When adequate public water supply with adequate pressure is confirmed to be available by a public water provider, developers of any subdivision must use that public water service for domestic use. When water is to be supplied by public water supply, a written statement from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision.

- b. Where public water service is provided, the system shall be designed according to the specifications of the public water provider.
- 8. The date the plan was prepared, north point, and graphic map scale.
- 9. The names and addresses of the record owner, applicant, and individual or company who prepared the plan and adjoining property owners.
- 10. Wetland areas shall be delineated on the survey, regardless of size.
- 11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, unusually large specimen trees, if present, and other essential existing physical features.
- 12. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.
- 13. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
- 14. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- 15. The location, names, and present widths of existing streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
- 16. The width and location of any streets, public improvements or open space shown upon the official map and the comprehensive plan, if any, within the subdivision.
- 17. The proposed lot lines with approximate dimensions and lot areas.
- 18. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- 19. The location of any open space to be preserved or common areas to be created, and a general description of proposed ownership, improvement and management.
- 20. The area on each lot where existing forest cover will be permitted to be removed and converted to lawn, structures or other cover and any proposed restrictions to be placed on clearing existing vegetation.
- 21. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
- 22. Areas within or adjacent to the proposed subdivision which have been identified by the Maine Department of Inland Fisheries and Wildlife Beginning with Habitat Project or within the

comprehensive plan. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program or Maine Department of Inland Fisheries & Wildlife Beginning With Habitat Project the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.

23. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the comprehensive plan or by the Maine Historic Preservation Commission as sensitive or likely to contain such sites.

D. Required Submissions for which a Waiver May be Granted. The following items shall be submitted as part of the Preliminary Plan Application, unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Planning Board, pursuant to Article 12, Waivers. Ten (10) copies of all materials shall be delivered to the Town Office, at least 14 days prior to a regularly scheduled Planning Board meeting, in order for the application to be placed on the Board's agenda. The Board may require additional information to be submitted, as necessary, in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.

1. A high-intensity soil survey by a registered soil scientist.
2. Contour lines at the interval specified by the Planning Board, showing elevations in relation to mean sea level.
3. Hydrogeologic assessment.
A hydrogeologic assessment prepared by a certified geologist or registered professional engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and:
 - a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey, 1998, File No. 98-138, 144 and 147; or
 - b. The subdivision has an average density of more than one dwelling unit per 100,000 square feet. The Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on groundwater quality. These cases include extensive areas of shallow to bedrock soils; or cluster developments in which the average density is less than one dwelling unit per 100,000 square feet but the density of the developed portion is in excess of one dwelling unit per 80,000 square feet; and proposed use of shared or common subsurface wastewater disposal systems. The hydrogeologic assessment shall be conducted in accordance with the provisions of section 10.9 below.
4. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from the most recent available edition of the Trip Generation Manual, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
5. Traffic Impact Analysis. For subdivisions involving 28 or more parking spaces or projected to generate more than 140 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.

- E. The Planning Board may require any additional information not listed above, when it is determined necessary by the Board to determine whether the statutory review criteria of Title 30-A M.R.S.A. §4404 have been met.

ARTICLE 7 - FINAL PLAN APPLICATION

7.1 Procedure.

- A. Within six months after the approval of the preliminary plan, the applicant shall submit 10 copies of an application for approval of the final plan with all supporting materials, at least 21 days prior to a scheduled meeting of the Board. Applications shall be submitted by mail to the Board in care of the municipal offices or delivered by hand to the municipal offices. If the application for the final plan is not submitted within six months after preliminary plan approval, the Board shall require resubmission of the preliminary plan, except as stipulated below. The final plan shall approximate the layout shown on the preliminary plan, plus any changes required by the Board.

If an applicant cannot submit the final plan within six months, due to delays caused by other regulatory bodies, or other reasons, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. In considering the request for an extension the Board shall make findings that the applicant has made due progress in preparation of the final plan and in pursuing approval of the plans before other agencies, and that municipal ordinances or regulations which may impact on the proposed development have not been amended.

- B. All applications for final plan approval for a subdivision shall be accompanied by a nonrefundable application fee in an amount equal to the fee schedule established by the Searsport Board of Selectmen, and payable by check to the municipality. The Planning Board may continue to require the replenishment of the escrow account for hiring independent consulting services to review the application for final plan approval, along with any supporting materials, pursuant to the procedures of section 6.1 B.
- C. Prior to submittal of the final plan application, the following approvals shall be obtained in writing, where applicable:
1. Maine Department of Environmental Protection, under the Site Location of Development Act.
 2. Maine Department of Environmental Protection, under the Natural Resources Protection Act or Stormwater Law, or if an MEPDES wastewater discharge license is needed.
 3. Maine Department of Human Services, if the applicant proposes to provide a public water system.
 4. Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized.
 5. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
 6. Maine Department of Transportation Traffic Movement Permit, and/or Highway Entrance/Driveway Access Management Permit

If the Board is unsure whether a permit or license from a state or federal agency is necessary, the applicant may be required to obtain a written opinion from the appropriate agency as to the applicability of their regulations.

D. If the preliminary plan identified any areas listed on or eligible to be listed on the National Register of Historic Places, in accordance with Section 6.2.C.23, the applicant shall submit a copy of the plan and a copy of any proposed mitigation measures to the Maine Historic Preservation commission prior to submitting the final plan application.

E. Written approval of any proposed street names from the Town of Searsport E911 Addressing Officer.

F. The Board shall not review any final plan application unless the applicant or applicant's representative attends the meeting. Should the applicant or applicant's representative fail to attend, the Board shall reschedule review of the application at its next regular meeting.

G. Within three days of the receipt of the Final Plan application, the Board, or its designee, shall issue a dated receipt to the applicant.

H. Within thirty days of the receipt of the final plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.

I. Upon determination that a complete application has been submitted for review, the Board shall notify the applicant in writing. The Board shall determine whether to hold a public hearing on the final plan application.

J. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days prior to the hearing. In addition, the notice of the hearing shall be posted in at least three prominent places within the municipality at least seven days prior to the hearing. A copy of the notice shall be sent by First Class mail to abutting landowners and to the applicant, at least ten days prior to the hearing.

K. Before the Board grants approval of the final plan, the applicant shall meet the performance guarantee requirements contained in Article 11.

L. Within thirty days from the public hearing or within sixty days of receiving a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the

Board shall make findings of fact, and conclusions relative to the criteria for approval contained in Title 30-A M.R.S.A., §4404 and the standards of this ordinance. If the Board finds that all the criteria of the statute and the standards of this ordinance have been met, they shall approve the final plan. If the Board finds that any of the criteria of the statute or the standards of this ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

7.2 Mandatory Submissions.

The final plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border line on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Board. One reproducible, stable-based transparency of the recording plan to be recorded at the Registry of Deeds, and four (4) full sized paper copies of all the final plan sheets and any supporting documents shall be submitted.

The final plan shall include or be accompanied by the following mandatory submissions of information.

- A. Completed Final Plan Application Form and Final Plan Application Submissions Checklist.
- B. Proposed name of the subdivision and the name of the municipality in which it is located, plus the assessor's map and lot numbers.
- C. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
- D. An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the sewer district indicating the district has reviewed and approved the sewerage design shall be submitted.
- E. An indication of the type of water supply system(s) to be used in the subdivision.
 - 1. When water is to be supplied by an existing public water supply, a written statement from the servicing water district shall be submitted indicating the district has reviewed and approved the water system design.
 - 2. A written statement shall be submitted from the fire chief approving all hydrant locations or other fire protection measures deemed necessary.
 - 3. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrologist familiar with the area.
- F. The date the plan was prepared, north point, graphic map scale.

- G. The names and addresses of the record owner, applicant, and individual or company who prepared the plan.
- H. The location of any zoning boundaries affecting the subdivision.
- I. If different than those submitted with the preliminary plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
- J. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- K. The location, names, and present widths of existing and proposed streets, highways, easements, buildings, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a professional land surveyor. The original reproducible plan shall be embossed with the seal of the professional land surveyor and be signed by that individual.
- L. Street plans, meeting the requirements of Section 10.15.
- M. The width and location of any proposed new streets or public improvements or open space within the subject property that are shown upon the official map, in the comprehensive plan, or Capital Improvements Program, if any.
- N. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public ways and open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be managed and maintained shall be submitted. These may include homeowners' association by laws and condominium declarations. If proposed streets and/or open spaces or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer to convey title shall be included.
- O. The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.

- P. The location and method of disposal for land clearing and construction debris.

7.3 Required Submissions for which a Waiver May be Granted .

The final plan shall also include or be accompanied by the following information, unless a waiver is requested and granted pursuant to Article 12, Waivers:

- A. An erosion and sedimentation control plan prepared in accordance with the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices, published by the Maine Department of Environmental Protection. The Board may waive submission of the erosion and sedimentation control plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- B. A stormwater management plan, prepared by a registered professional engineer in accordance with the most recent edition of *Stormwater Management for Maine: BMPS Technical Design Manual*, published by the Maine Department of Environmental Protection, 2006. Another methodology may be used if the applicant can demonstrate it is equally applicable to the site. The Board may waive submission of the stormwater management plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- C. If any portion of the proposed subdivision is in the direct watershed of a great pond, and meets the criteria of section 10.12.D, the following shall be submitted or indicated on the plan:
 - (1) A phosphorus impact analysis and control plan conducted using the procedures set forth in DEP Phosphorus Design Manual, Volume II of the Maine Stormwater Best Management Practices Manual, 2006. The analysis and control plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by the Technical Guide.
 - (2) A long-term maintenance plan for all phosphorus control measures.
 - (3) The contour lines shown on the plan shall be at an interval of no less than five feet.
 - (4) Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.

7.4 Final Approval and Filing.

- A. No plan shall be approved by the Board as long as the applicant is in violation of the provisions of the previously approved Plan within the municipality.
- B. Upon findings of fact and determination that all standards in Title 30-A M.R.S.A., §4404, and this ordinance have been met, and upon voting to approve the subdivision, the Board shall sign the final plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the tax assessor. One copy of the signed plan shall be

forwarded to the code enforcement officer. Any subdivision not recorded in the Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void.

C. At the time the Board grants final plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the expansion, addition or purchase of the needed facilities is included in the municipality's capital improvements program, the time period of the phasing shall be no longer than the time period contained in the capital improvements program for the expansion, addition or purchase.

D. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless a revised final plan is first submitted and the Board approves any modifications, in accordance with Article 8. The Board shall make findings that the revised plan meets the criteria of Title 30-A M.R.S.A., §4404, and the standards of these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.

E. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

F. Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within five years of the date of approval and signing of the plan shall render the plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

ARTICLE 8 - REVISIONS TO APPROVED PLANS

8.1 Procedure.

An applicant for a revision to a previously approved plan shall, at least 21 days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan approval shall be followed. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed.

8.2 Submissions.

The applicant shall submit a copy of the approved plan as well as 10 copies of the proposed revisions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of this ordinance and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Registry of Deeds.

8.3 Scope of Review.

The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

ARTICLE 9 - INSPECTIONS AND ENFORCEMENT

9.1 Inspection of Required Improvements.

- A. At least five days prior to commencing construction of required improvements, the subdivider or builder shall:
 - 1. Notify the code enforcement officer in writing of the time when (s)he proposes to commence construction of such improvements, so that the municipal officers can arrange for inspections to assure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
 - 2. Deposit with the municipal officers a check for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus shall be refunded to the subdivider or builder as appropriate. If the inspection account shall be drawn down by 90%, the subdivider or builder shall deposit an additional 1% of the estimated costs of the required improvements.
- B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, the inspecting official shall so report in writing to the municipal officers, Board, and the subdivider and builder. The municipal officers shall take any steps necessary to assure compliance with the approved plans.
- C. If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall obtain permission from the Board to modify the plans in accordance with Article 8.
- D. At the close of each summer construction season the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By October 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered.
- E. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a professional land surveyor, stating that all monumentation shown on the plan has been installed.
- F. Upon completion of street construction and prior to a vote by the municipal officers to submit a proposed public way to a town meeting, a written certification signed by a professional engineer shall be submitted to the municipal officers at the expense of the applicant, certifying that the proposed

public way meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the municipal officers.

- G. The subdivider shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality or control is placed with a lot owners' association.

9.2 Violations and Enforcement.

- A. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Board in accordance with this ordinance.
- B. A person shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- C. A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.
- D. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Board.
- E. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a plan approved as provided in these regulations and recorded in the Registry of Deeds.
- F. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with these regulations up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with these regulations.
- G. Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of Title 30-A M.R.S.A., §4452.

ARTICLE 10 - PERFORMANCE & DESIGN STANDARDS

The performance and design standards in this article are intended to clarify and expand upon the statutory review criteria found in Article 1, section 2. In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance and design standards and make findings that each has been met prior to the approval of a final plan. In all instances, the burden of proof shall be upon the applicant to present adequate information to indicate all performance and design standards and statutory criteria for approval have been or will be met.

10.1 Basic Subdivision Layout

A. Blocks.

Where street lengths exceed 1,000 feet between intersections with other streets, the Board may require a utility/pedestrian easement, at least 20 feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five feet in width constructed in accordance with design standards for sidewalks below. Maintenance obligations of the easement shall be included in the written description of the easement.

B. Lots.

1. Wherever possible, side lot lines shall be perpendicular to the street.
2. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the subdivision statute, the standards of this ordinance and conditions placed on the original approval.
3. If a lot on one side of a stream (as defined in the DEP Minimum Shoreland Zoning Guidelines), tidal water, or road fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.
4. The ratio of lot length to width, outside of the shoreland zone, shall not be more than five to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1.
5. The lot numbering shall be reviewed by the E-911 Addressing Officer and the comments shall be considered by the Board.

C. Utilities.

Utilities serving subdivisions in areas designated by the comprehensive plan as growth areas shall be installed underground. Utilities serving lots with a street frontage of 125 feet or less shall be installed underground. The Board may approve overhead utilities when the applicant proposes reserved affordable housing and provides evidence that the increased costs of underground utilities will raise the costs of the housing beyond the targets for affordable housing in the comprehensive plan.

D. Monuments.

1. All subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation, as required by the Maine Board of Registration of Land Surveyors.

10.2 Sufficient Water.

A. Water Supply.

1. Any subdivision within 1,000 feet of an existing water supply line will be required to connect to the system. When adequate public water supply service will not be available at the time of construction of the subdivision, a "capped system" shall be installed within the subdivision to allow future connection when adequate service becomes available without excavation within the right-of-way of any street within the subdivision.
2. When a subdivision is to be served by a public water system, the complete supply system within the subdivision including fire hydrants, shall be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the servicing water company or district and the fire chief. Fire hydrants connected to a public water supply system shall be located no further than 1,000 feet between hydrants, whenever possible.
3. When a proposed subdivision is not within the area designated for public water supply service in the comprehensive plan, water supply shall be from individual wells or a private community water system.
 - a. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface waste water disposal systems and other sources of potential contamination.
 - (1) Due to the increased chance of contamination from surface water, dug wells shall be prohibited on lots of smaller than one acre. On lots of one acre or smaller, the applicant shall prohibit dug wells by deed restrictions and a note on the plan.
 - (2) Wells shall not be constructed within 100 feet of the traveled way of any street, if located downhill from the street, or within 50 feet of the traveled way of any street, if located uphill of the street. This restriction shall be included as a note on the plan and deed restriction to the effected lots.
 - b. Lot design shall permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules.
 - c. If a central water supply system is provided by the applicant, the location and protection of the source, the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).
 - d. If the Fire Chief has identified the need for additional water storage capacity for fire fighting purposes, the applicant shall provide adequate water storage facilities.
 - (1) Facilities may be ponds with dry hydrants, underground storage reservoirs or other methods acceptable to the fire chief.
 - (2) Hydrants or other provisions for drafting water shall be provided to the specifications of the fire department. Minimum pipe size connecting dry hydrants to ponds or storage vaults shall be six inches. A suitable accessway to the hydrant or other water source shall be constructed.

B. Water Quality.

Water supplies shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact shall be disclosed in a note on the plan to be recorded in the Registry of Deeds.

10.3 Erosion and Sedimentation and Impact on Water Bodies

- A. The proposed subdivision shall prevent soil erosion and sedimentation from entering waterbodies, wetlands, and adjacent properties.
- B. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
- C. Cutting or removal of vegetation along waterbodies shall not increase water temperature or result in shoreline erosion or sedimentation.
- D. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

10.4 Sewage Disposal

A. Public System.

- 1. Any subdivision within 1,000 feet of an existing public sewage disposal service shall be connected to the public system.
- 2. When a subdivision is proposed to be served by the public sewage system, the complete collection system within the subdivision, including manholes and pump stations, shall be installed at the expense of the applicant.
- 3. The sewer district shall certify that providing service to the proposed subdivision is within the capacity of the system's existing collection and treatment system or improvements planned to be complete prior to the construction of the subdivision.
- 4. The sewer district shall review and approve the construction drawings for the sewerage system. The size and location of laterals, collectors, manholes, and pump stations shall be reviewed and approved in writing by the servicing sewer district or department.

B. Private Systems.

- 1. When a proposed subdivision is beyond 1,000 feet of a public sewage disposal service then sewage disposal shall be private subsurface waste water disposal systems or a private treatment facility with surface discharge, licensed by the Department of Environmental Protection.
- 2. The applicant shall submit evidence of site suitability for subsurface sewage disposal for each lot, and indicated on the final plat plan, as prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.
 - a. The site evaluator shall certify in writing that all test pits which meet the requirements for a new system represent an area large enough to a disposal area on soils which meet the Disposal Rules. This information should appear on a form printed by the Division of Health Engineering known as an HHE-200.
 - b. On lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted in the deed so as not to be built upon.
 - c. In no instance shall a disposal area be on a site which requires a New System Variance from the Subsurface Wastewater Disposal Rules.

10.5 Solid Waste

If the additional solid waste from the proposed subdivision exceeds the capacity of the municipal

solid waste facility, causes the municipal facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the municipality to exceed its contract with a non-municipal facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with its license. The Board may not require the alternate arrangement to exceed a period of five years.

10.6 Impact on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline.

A. Preservation of Natural Beauty and Aesthetics.

1. The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.
2. In “Rural-AG” areas only, as indicated in the Comprehensive Plan, the subdivision shall be designed to minimize the visibility of buildings from existing public roads. A subdivision in which the land cover type at the time of application is forested, shall maintain a wooded buffer strip no less than fifty feet in width along all existing public roads. The buffer may be broken only for driveways and streets.
3. The Board may require the application to include a landscape plan that will show the preservation of any existing large specimen trees, the replacement of trees and vegetation, and graded contours.
4. When a proposed subdivision street traverses open fields, the plan shall include the planting of street trees. Street trees shall include a mix of tall shade trees and medium height flowering species. Trees shall be planted no more than fifty feet apart.
5. When a proposed subdivision contains a ridge line identified in the comprehensive plan as a visual resource to be protected, the plan shall restrict tree removal and prohibit building placement within 50 feet vertical distance of the ridge top. These restrictions shall appear as notes on the plan and as covenants in the deed.

B. Retention of Open Spaces and Natural or Historic Features.

1. If any portion of the subdivision is located within an area designated by the comprehensive plan as open space or greenbelt, that portion shall be reserved for open space preservation.
2. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
3. If any portion of the subdivision is designated a site of historic or prehistoric importance by the comprehensive plan, National Register of Historic Places, or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan. When the historic features to be protected include buildings, the placement and the architectural design of new structures in the subdivision shall be similar to the

historic structures. The Board shall seek the advice of the Maine Historic Preservation Commission in reviewing such plans.

4. The subdivision shall reserve sufficient undeveloped land to provide for the recreational needs of the occupants. The percentage of open space to be reserved shall depend on the identified needs for outdoor recreation in the portion of the municipality in which the subdivision is located according to the comprehensive plan, the proposed lot sizes within the subdivision, the expected demographic makeup of the occupants of the subdivision, and the site characteristics, but shall constitute no less than 5% of the area of the subdivision. In determining the need for recreational open space the Board shall also consider the proximity of the subdivision to neighboring dedicated open space or recreation facilities; and the type of development. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than 25 feet of road frontage.
5. Subdivisions with an average density of more than three dwelling units per acre shall provide no less than fifty percent of the open space as usable open space to be improved for ball fields, playgrounds or other similar active recreation facility. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one or more streets of at least 200 feet, and have no major dimensions of less than 200 feet.
6. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended.
7. Reserved open space land may be dedicated to the municipality.
8. Where land within the subdivision is not suitable or is insufficient in amount, and when suggested by the comprehensive plan, a payment in lieu of dedication may be substituted for the reservation of some or part of the open space requirement. Payments in lieu of dedication shall be calculated based on the percentage of reserved open space that otherwise would be required and that percentage of the projected market value of the developed land at the time of the subdivision, as determined by the municipal tax assessor. The payment in lieu of dedication shall be deposited into a municipal land open space or outdoor recreation facility acquisition or improvement fund.

C. Protection of Significant Wildlife Habitat.

If any portion of a proposed subdivision lies within:

1. 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife Beginning with Habitat Project or the comprehensive plan as:
 - a. Habitat for species appearing on the official state or federal lists of endangered or threatened species;
 - b. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
 - c. Shorebird nesting, feeding and staging areas and seabird nesting islands;
 - d. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; or

2. 1,320 feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor;
3. Or other important habitat areas identified in the comprehensive plan or in the Department of Inland Fisheries and Wildlife Beginning with Habitat Project;
the applicant shall demonstrate that there shall be no adverse impacts on the habitat and species it supports. There shall be no cutting of vegetation within such areas, or within the strip of land extending at least 75 feet from the edge or normal high-water mark of such habitat areas. The applicant must consult with the Maine Department of Inland Fisheries and Wildlife, and provide their written comments to the Board. The Board may require a report to be submitted, prepared by a wildlife biologist, selected or approved by the Board, with demonstrated experience with the wildlife resource being impacted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe any additional appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports.

D. Protection of Important Shoreland Areas.

1. Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the open space with provisions made for continued public access.
2. Within areas subject to the state mandated shoreland zone, within a strip of land extending 100 feet inland from the normal high-water line of a great pond or any tributary to a great pond, and 75 feet from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. The plan notes, and deeds to any lots which include any such land, shall contain the following restrictions:
 - a. Tree removal shall be limited to no more than 40% of the volume of trees 4 inches or more in diameter measured at 4 1/2 feet above the ground level on any lot in any ten year period.
 - b. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown.
 - c. However, a footpath not to exceed ten feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond, or a tributary to a great pond, the width of the foot path shall be limited to six feet.
 - d. In order to protect water quality and wildlife habitat adjacent to great ponds, and tributaries to great ponds, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described above.
 - e. Pruning of tree branches, on the bottom third of the tree is permitted.
3. Within areas subject to the state mandated shoreland zone, beyond the buffer strip designated above, and out to 250 feet from the normal high water line of a water body or upland edge of a wetland, cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, shall not exceed in the aggregate, 25% of the lot area or 10,000 square feet, whichever is greater, including land previously developed.

E. Reservation or Dedication and Maintenance of Open Space and Common Land, Facilities and Services.

1. All open space common land, facilities and property shall be owned by:
 - a. The owners of the lots or dwelling units by means of a lot owners' association;

- b. An association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or
 - c. The municipality.
- 2. Further subdivision of the common land or open space and its use for other than non-commercial recreation, agriculture, or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land. When open space is to be owned by an entity other than the municipality, there shall be a conservation easement deeded to the municipality prohibiting future development.
- 3. The common land or open space shall be shown on the final plan with appropriate notations on the plan to indicate:
 - a. It shall not be used for future building lots; and
 - b. Which portions of the open space, if any, may be dedicated for acceptance by the municipality.
- 4. The final plan application shall include the following:
 - a. Covenants for mandatory membership in the lot owners' association setting forth the owners' rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling.
 - b. Draft articles of incorporation of the proposed lot owners' association as a not-for-profit corporation; and
 - c. Draft by-laws of the proposed lot owners' association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities.
- 5. In combination, the documents referenced in paragraph D above shall provide for the following.
 - a. The homeowners' association shall have the responsibility of maintaining the common property or facilities.
 - b. The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of common property and facilities and tax assessments.
 - c. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.
 - d. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Board upon request of the lot owners' association or the developer.

10.7 Conformance with Zoning Ordinance and Other Land Use Ordinances.

All lots, other than those found within cluster developments approved pursuant to section 10. 13, shall meet the minimum dimensional requirements of the zoning ordinance for the zoning district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria from the zoning ordinance and other land use ordinances.

10.8 Financial and Technical Capacity.

A. Financial Capacity.

The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of these regulations. When the applicant proposes

to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation.

B. Technical Ability.

1. The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.
2. In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

10.9 Impact on Ground Water Quality or Quantity.

A. Ground Water Quality.

1. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
 - a. A map showing the basic soils types.
 - b. The depth to the water table at representative points throughout the subdivision.
 - c. Drainage conditions throughout the subdivision.
 - d. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
 - e. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, or at the subdivision boundaries; or at a distance of 1,000 feet from potential contamination sources, whichever is a shortest distance.
 - f. A map showing the location of any subsurface waste water disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
2. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
3. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
4. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
5. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
6. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the final plan, and as restrictions in the deeds to the affected lots.

B. Ground Water Quantity.

1. Ground water withdrawals by a proposed subdivision shall not lower the water table beyond the boundaries of the subdivision.

2. A proposed subdivision shall not result in a lowering of the water table at the subdivision boundary by increasing runoff with a corresponding decrease in infiltration of precipitation.

10.10 Floodplain Management.

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency:

- A. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.
- B. Adequate drainage shall be provided so as to reduce exposure to flood hazards.
- C. The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on the plan.

10.11 Identification of Freshwater Wetlands, Rivers, Streams or Brooks.

Freshwater wetlands within the proposed subdivision shall be identified in accordance with the *1987 Corps of Engineers Wetland Delineation Manual*, published by the United States Army Corps of Engineers. Any rivers, streams, or brooks within or abutting the proposed subdivision shall be identified.

10.12 Stormwater Management

- A. For subdivisions that require a DEP review under the Site Location of Development Act (SLDA), a stormwater management plan shall be submitted which complies with the SLDA permit and the requirements of DEP Chapter 500 Stormwater Regulations.
- B. For subdivisions that do not require a SLDA permit, but require a DEP permit under the Stormwater Law, a stormwater management plan shall be submitted which complies with the requirements of DEP Chapter 500 Stormwater Regulations.
- C. For subdivisions outside of the watershed of a Great Pond, that neither require a SLDA permit, nor a DEP permit under the Stormwater Law, a stormwater management plan shall be submitted which incorporates Low Impact Development techniques on each individual lot.
- D. For subdivisions within the watershed of a Great Pond, containing:
 1. five or more lots or dwelling units created within any five-year period; or
 2. any combination of 800 linear feet of new or upgraded driveways and/or streets;a stormwater management plan shall be submitted that meets the phosphorus allocation across the entire subdivision in accordance with the methodology described in the DEP Phosphorus Design Manual, Volume II of the Maine Stormwater Best Management Practices Manual, 2006.
- E. The Planning Board may require a hydrologic analysis for any site in areas with a history of flooding or in areas with a potential for future flooding, associated with cumulative impacts of development.

This hydrologic analysis would be in the form of a “Downstream Analysis” under conditions of the 10-year, 24-hour storm and the 25-year, 24-hour storm, and the 100-year, 24-hour storm, as described below:

Downstream Analysis Methodology

The criteria used for the downstream analysis is referred to as the “10% rule.” Under the 10% rule, a hydrologic and hydraulic analysis for the 10-year, 24 hour storm and the 25-year, 24-hour storm, and the 100-year, 24-hour storm is extended downstream to the point where the site represents 10% of the total drainage area. For example, a 10-acre site would be analyzed to the point downstream with a drainage area of 100 acres. This analysis should compute flow rates and velocities downstream to the location of the 10% rule for present conditions and proposed conditions. If the flow rates and velocities increase by more than 5% and/or if any existing downstream structures are impacted, the designer should redesign and incorporate detention facilities.

10.13 Cluster Developments

A. Purpose, Mandate for Clustering.

1. The purpose of these provisions is to allow for flexibility in the design of housing developments to allow for the creation of open space which provides recreational opportunities or protects important natural features from the adverse impacts of development, provided that the net residential density shall be no greater than is permitted in the district in which the development is proposed. Notwithstanding provisions of the zoning ordinance relating to dimensional requirements, the Board, in reviewing and approving proposed residential subdivisions, may modify the provisions related to dimensional requirements to permit flexibility in approaches to housing and environmental design in accordance with the following guidelines. This shall not be construed as granting variances to relieve hardship, and action of the Zoning Board of Appeals shall not be required.
2. All subdivisions where three (3) lots or units or more are created within any five year period, and the project is NOT located in the Industrial, Marine, or Residential-3 zoning districts, shall be designed as a cluster developments, according to the following standards.

B. Basic Standards for Cluster Developments.

1. Cluster developments shall meet all requirements of these regulations.
2. A “building envelope” shall be an element of an overall plan for site development. Only developments having a total site plan for structures will be considered. The application shall illustrate the treatment of spaces, paths, roads, service and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of these regulations.
3. The Planning Board shall allow lots within cluster developments to be reduced in lot area, street frontage and lot width below the minimum normally required by this ordinance in return for provision of common open space.
4. Acreage shall be calculated by taking the total area of the lot and subtracting, in order, the following:
 - a. The area of the lot to account for roads and common parking areas.
 - b. Portions of the lot shown to be in a floodway or a coastal high hazard zone as designated in the Flood Boundary and Floodway Map prepared by the Federal Insurance Administration.
 - c. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:
 1. slopes greater than 20%.

2. wetland soils.
3. Portions of the lot subject to rights of way.
4. Portions of the lot located in the resource protection zone.
5. Portions of the lot covered by surface waters.
6. Portions of the lot utilized for storm water management facilities.
5. Unless a community sewage collection and treatment system is provided, no individual lot or area of occupation, in the case of a condominium, shall be smaller in area than 20,000 square feet.
6. The total area of reserved open space within the development shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required by the zoning ordinance. However, at least twenty-five percent (25%) to fifty percent (50%) of the area of the entire parcel or tract shall be included as common open space. Common open space shall not include road rights of way, streets, drives, or parking. No more than fifty percent (50%) of the common open space shall consist of forested wetlands or open wetlands of any size.
7. Every building lot that is reduced in area below the amount normally required shall be within 1,000 feet of the common land.
8. The distance between buildings shall not be less than 20 feet.
9. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development.
10. Shore frontage for each lot or area of occupation, in the case of a condominium, shall not be reduced below the minimum normally required by the zoning ordinance.
11. Where a cluster development abuts a body of water, a usable portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.
12. The common open space shall be owned and managed according to the standards of 10.6.E.
13. The subdivider shall be responsible for the maintenance of the common open space and the other common facilities, until development sufficient to support the neighborhood association has taken place. or, alternatively, the objectives of clustering have been met. Such determination shall be made The transfer of responsibility shall occur only after review and approval by the Planning Board, upon request by the neighborhood association or the developer or subdivider.

10.14 Compliance with Timber Harvesting Rules.

The Board shall ascertain that any timber harvested on the parcel being subdivided, has been harvested in compliance with rules adopted pursuant to Title 12, M.R.S.A section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Bureau notifies the Planning Board that it will not provide assistance, the Board may require a subdivision applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, M.R.S.A section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership.

10.15 Traffic Conditions and Streets.

A. General Standards

The proposed subdivision shall meet the following general transportation performance standards:

1. The subdivision transportation system shall provide safeguards against hazards to vehicles, bicyclists and pedestrians in interior subdivision streets and access connections to external streets;
2. The subdivision transportation system shall have design standards that avoid traffic congestion on any street;
3. The subdivision transportation system shall provide safe and convenient circulation for vehicles, bicyclists and pedestrians on interior subdivision streets and access connections to external streets;
4. The subdivision transportation system shall have design standards that are compatible with the estimated Average Annual Daily Traffic of the street, the land uses accommodated by the street, and the lot density of the street.
5. The subdivision transportation system shall have a positive relationship to the natural setting of the proposed subdivision site.

B. General Access Standards.

All subdivision accesses connecting with external streets shall meet the following standards:

1. Accesses connecting to any state or state-aid highway shall meet the minimum access permitting requirements of the Maine Department of Transportation “Highway Driveway and Entrance Rules”;
2. Accesses that are expected to carry more than 100 passenger vehicle equivalent trips in the peak hour shall meet the minimum access permitting requirements of the Maine Department of Transportation “Rules and Regulations Pertaining to Traffic Movement Permits”.
3. Accesses to non-residential subdivisions or to multifamily developments shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A study or analysis to determine the need for a left-turn storage lane shall be done.

C. General Internal Subdivision Street Standards

All internal subdivision streets shall meet the following minimum standards. In cases where the internal subdivision street standards conflict with the street ordinance of the municipality, the more stringent rule shall apply.

1. The street or street system of the proposed subdivision shall be designed to coordinate with existing, proposed, and planned streets. Wherever a proposed development abuts unplatted land or a future development phase of the same development, street stubs shall be provided as deemed necessary by the municipality to provide access to abutting properties or to logically extend the street system. All street stubs shall be provided with temporary turn around or cul-de-sacs unless specifically exempted by the Public Works Foreman, and the restoration and expansion of the street shall be the responsibility of any future developer of the abutting land. Minor collector and local streets shall connect with surrounding streets to permit convenient movement of traffic between residential neighborhoods or facilitate emergency access and

evacuation, but such connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through traffic.

2. Where necessary to safeguard against hazards to vehicle drivers, bicyclists and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycleways, transportation calming techniques, and traffic controls within existing public streets.
3. Street Names, Signs and Lighting.
Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality, and shall be in accordance with the Searsport Addressing Ordinance. No street name shall be the common given name of a person. The developer shall either install street name, traffic safety and control signs meeting municipal specifications or reimburse the municipality for the costs of their installation. Street lighting shall be installed as approved by the Planning Board and subject to legislative body approval.
4. During street construction, the entire right of way shall not be cleared unless clearing is necessary for utilities, drainage or other infrastructure necessities beyond the clear zone. Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire right of way created during the street construction process. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

10.15.1 Specific Access and Street Design Standards.

A. Access Control.

1. To the maximum extent practical, all subdivision accesses shall be constructed perpendicular to the external street providing access to the subdivision. No subdivision accesses shall intersect the external street at an angle of less than 60 degrees.
2. Where a subdivision abuts or contains an existing or proposed arterial street, no lot may have vehicular access directly to the arterial street. This requirement shall be noted on the plan and in the deed of any lot with frontage on the arterial street.
3. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots. In cases where creating an access to a lesser traveled way is problematical, the Board may allow an access on the higher volume street if the access does not significantly detract from public safety. For accesses on higher volume streets, the Board shall consider the functional classification of the external street, the length of frontage on the external street, the intensity of traffic generated by the proposed subdivision, the geography along the frontage of the public way with lesser potential for traffic, and the distance to the public way with lesser potential for traffic. In cases where the double frontage lot has frontage on two Maine Department of Transportation designated non-compact arterials, the access shall meet the permitting standards of the Maine Department of Transportation "Highway Driveway and Entrance Rules".
4. Lots in subdivisions with frontage on a state or state aid highway shall have shared access

points to and from the highway. Normally a maximum of two accesses shall be allowed regardless of the number of lots or businesses served.

5. The subdivision access including all radii must be paved from the edge of pavement of the external street to the street right of way or the length of the design vehicle using the subdivision, whichever is greater, unless:
 - a. the external street is not paved; or
 - b. the internal subdivision street is an unpaved private street that is expected to carry an Average Daily Traffic capacity of 50 trips or less.
6. Minimum Sight Distance Standards
 Minimum sight distance requirements for all subdivision accesses connecting to external streets shall be contingent on the posted speed of the external street connecting to the subdivision access. Minimum line of sight distance standards, as stipulated in MDOT's "Highway Driveway and Entrance Rules", shall apply.
7. All streets in a subdivision shall be designed and constructed to meet the following standards for streets according to their classifications as determined by the Planning Board.

Design and Construction Standards for Streets		
Item	Collector Road	Minor Road
Minimum right-of-way width	66 feet	60 feet
Minimum pavement width	24 feet	20 feet
Minimum grade	'0.5%	'1.0%
Maximum grade	'8%	'8%
Maximum grade at intersections	3% within 75 feet	3% within 75 feet
Number of sidewalks	1	1
Minimum centerline radii on curves	200 feet	100 feet
Minimum tangent length between reverse curves	200 feet	100 feet
Minimum depth of subgrade grading	22 inches	22 inches
Gravel base	22 inches	22 inches
Pavement (see "Minimum Pavement Width")	3 inches	3 inches
Minimum road crown-centerline to edge of pavement	3 inches	3 inches
Minimum shoulder width on each side of road	2 feet	2 feet
Sidewalks: 1. minimum width 2. Gravel base course 3. Surface pavement	5 feet 6 inches 2 inches	4 feet 6 inches 2 inches
Dead end or cul-de-sac street: 1. Maximum length	1,200 feet	1,200 feet

2. Radii of turnaround at enclosed end:		
Right-of-way boundary - minimum	66 feet	66 feet
Outside pavement radius - minimum	47 feet	47 feet
Width of pavement - minimum	30 feet	30 feet
Minimum pavement curb radii at intersections	20 feet	20 feet
Grades of street should conform as closely as possible to the original relief of the land.		
All changes in grade shall be connected by vertical curves such as will provide clear visibility for a distance of 200 feet.		
Side slopes shall not be steeper than 3 feet horizontal and 1 foot vertical, graded, loamed (4 inches compacted) and seeded. If the side slope extends outside the required right-of-way, the subdivider shall expand the right-of-way to include the entire slope area.		
All streets shall be provided with adequate drainage facilities to provide for the removal of stormwater. Drive-way culverts shall be adequate to pass the design flow of the contiguous ditches, and shall be a minimum of 15 inches in diameter.		
In construction of roads, the paved area, sidewalk, and shoulder shall be cleared of all stumps, roots, brush, perishable material, and all trees not intended for preservation. All loam, loamy material, clay, and other yielding material shall be removed from the roadway to at least subgrade depth, or as indicated by the Town Manager.		
The roadway area shall be brought to the grade shown on the plan, profile and cross-section, by suitable gravel. The gravel shall meet the specifications for Aggregate Sub-base Courses as contained in the current edition of <u>The Standard Specification for Highways and Bridges of the State of Maine Department of Transportation.</u>		
After the gravel has been thoroughly rolled, the surface of the roadway shall be paved. The pavement material and the manner of application of such shall conform to the requirements of the current edition of <u>The Standard Specification for Highways and Bridges of the State of Maine Department of Transportation.</u>		
The Planning Board may require the curbing of roads, and specify the type of material to be used.		
The Planning Board shall have authority to increase the minimum standards.		

8. All high volume accesses shall meet the requirements of the Maine Department of Transportation's "Rules and Regulations Pertaining to Traffic Movement Permits." A copy of the Maine Department of Transportation's required traffic study shall be submitted to the Board. The Board shall develop design standards for the proposed subdivision access based on the findings of the traffic study submitted to the Maine Department of Transportation. The design standards shall be compatible with the performance standards cited in Section 10.15.B of the Subdivision Regulations.

B. Street Design and Construction Standards.

1. General Requirements.

- a. The Board shall not approve any subdivision plan unless proposed streets are designed in accordance with any local ordinance or the specifications contained in these regulations. Approval of the final plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.

- b. Applicants shall submit to the Board, as part of the final plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets and existing streets within 300 feet of any proposed intersections. The plan view shall be at a scale of one inch equals no more than fifty feet. The vertical scale of the profile shall be one inch equals no more than five feet. The plans shall include the following information:
 - 1. Date, scale, and north point, indicating magnetic or true.
 - 2. Intersections of the proposed street with existing streets.
 - 3. Roadway and right-of-way limits including edge of pavement or aggregate base, edge of shoulder, clear zone, sidewalks, and curbs.
 - 4. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
 - 5. Complete curve data shall be indicated for all horizontal and vertical curves.
 - 6. Turning radii at all intersections.
 - 7. Centerline gradients.
 - 8. Size, type, vertical clearance and locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.
- c. Upon receipt of plans for a proposed public street the Board shall forward one copy to the municipal officers, the road commissioner, for review and comment.
- d. Where the applicant proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the road commissioner or the Maine Department of Transportation, as appropriate.
- e. Private Roads.

The following standards shall apply to all proposed private roads:

- 1. All private roads shall be designated as such and will be required to have adequate signage indicating the road is a private road and not publicly maintained.
- 2. Except for sidewalk, bicycle provisions and minimum grade requirements stipulated in this Section, all private roads shall adhere to the road design standards of this Section.
- 3. All properties served by the private road shall provide adequate access for emergency vehicles and shall conform to the approved local street numbering system.
- 4. All private roads shall have adequate provisions for drainage and stormwater runoff as provided in Section 10.12.
- 5. Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan:

“All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town, until they meet all municipal street design and construction standards.”
- 6. A road maintenance agreement, approved by the Planning Board, shall be recorded with the deed of each property to be served by a common private road. The agreement shall provide for a method to initiate and finance a private road and maintain that road in condition, and a method of apportioning maintenance costs to current and future users.

2. Street Design & Construction Standards.

The Planning Board shall decide what roads will be collector

streets and what roads will be minor streets.

- a. These design guidelines shall control the roadway, shoulders, clear zones, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the street, and shall be met by all streets within a subdivision, unless the applicant can provide clear and convincing evidence that an alternate design will meet good engineering practice and will meet the performance standards of this Article.
- b. Where a subdivision borders an existing street that is wider, the street right-of-way and/or pavement width shall be increased on each side by half of the amount necessary to bring the road into conformance with the standards for commercial streets in this ordinance.
- c. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in this ordinance), the plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes." Land reserved for such purposes may not be included in computing lot area or setback requirements of the land use ordinance.
- d. All streets in a subdivision shall be planned so as to meet the following standards:
 1. The proposed streets shall conform, as far as practical to the adopted Comprehensive Plan of the Town of Searsport.
 2. All streets in the subdivision shall be designed so as to provide safe vehicular travel and, in minor streets, shall be designed so as to discourage movement of through traffic.
 3. The arrangement of streets in the subdivision shall provide for the continuation of arterial and collector streets into adjoining unsubdivided land unless topographic or other factors make continuance impractical or undersirable. Where a subdivision is served by a minor street, the Planning Board may require that a right-of-way or the minor street be projected to adjacent unsubdivided land when the Board finds that a projected street would be in keeping with the land use goals for the area and with sound planning practice.
 4. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the town under conditions approved by the Board of Selectmen.
 5. Intersections of streets shall be at angles as close to right angles (ninety degrees) as possible. In no case shall two streets intersect at an angle less than sixty degrees.
 6. When not directly intersecting, offset streets shall maintain a centerline distance of at least 200 feet.
 7. Whenever possible, subdivisions containing fifteen lots or more shall have at least two street connections with existing public streets or streets on an approved Subdivision Plan.
- e. The Board shall have authority to increase the minimum standards.
- f. On Street Parking.

The Board shall have authority to require a paved cross section of 26 feet for residential subdivisions with average lot widths between 100 feet and 40 feet wide for on-street spillover parking.
- g. Curbs.
 1. Curbs shall be installed for stormwater purposes and/or to protect the pavement edge from unraveling along parking lanes or in very intensive developments where heavy use may erode the planted area at the edge of the pavement. Curbs for stormwater management shall be contingent on the stormwater design standards specified in Section 10.13. If curbs are not necessary for stormwater management purposes, they are not required for subdivisions in which the average lot width is 100 feet or greater.
 2. Granite curbing shall be installed on a thoroughly compacted gravel base of six inches

minimum thickness. Bituminous curbing shall be installed on the base course of the pavement.

- h. The Board may require additional shoulder lengths in any situation where the proximity of the proposed subdivision to future or existing neighborhood businesses, schools, community facilities, or other bicycle traffic generators suggest that additional shoulder lengths will be needed for bicycle traffic. In situations where additional shoulder lengths are required for bicyclists, the minimum width of a paved shoulder shall be 2 feet on either side of the traveled way.
- i. The centerline of the roadway shall be the centerline of the right-of-way.
- j. The Board may also require the reservation of a right-of-way easement equal to the right of way width of the internal subdivision street in line with the street to provide continuation of the road where future subdivision is possible. A T-turn around is permissible for residential subdivisions carrying an ADT of 200 or less. The turn around area shall have a width equal to the street width, a 5 foot turning radius, and a total length of 50 feet centered above the street.
- k. Sidewalks.

The Board may require sidewalks in any situation where the proximity of the proposed subdivision to future or existing neighborhood businesses, schools, community facilities, or other pedestrian traffic generators suggest sidewalks will be needed. The Board shall determine if sidewalks will be installed on one side or both sides of the street, and if the sidewalk shall be a bituminous or Portland cement concrete sidewalk.

1. Location.

Sidewalks may be located adjacent to the curb or shoulder but it is recommended to locate sidewalks a minimum of 2 1/2 feet from the curb facing or edge of shoulder if the street is not curbed. If no shoulder is required, the sidewalk shall be located a minimum of 4 feet from the edge of the traveled way.

2. Bituminous Sidewalks.

(a) The "subbase" aggregate course shall be no less than twelve inches thick after compaction.

(b) The hot bituminous pavement surface course shall be MDOT plant Mix Grade D constructed in two lifts, each no less than one inch after compaction.

3. Portland Cement Concrete Sidewalks.

(a) The "subbase" aggregate shall be no less than twelve inches thick after compaction.

(b) The portland cement concrete shall be reinforced with six inch square, number 10 wire mesh and shall be no less than four inches thick.

3. Street Construction Standards.

a. Preparation.

- 1. Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at fifty foot intervals.
- 2. Before grading is started, the entire area within the right-of-way necessary for for traveled way, shoulders, clear zones, sidewalks, drainage-ways, and utilities shall be cleared of all stumps, roots, brush, and other objectionable material. All shallow ledge, large boulders and tree stumps shall be removed from the cleared area.
- 3. All organic materials or other deleterious material shall be removed to a depth of

two feet below the subgrade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the subgrade of the roadway. On soils which have been identified by the municipal engineer as not suitable for roadways, either the subsoil shall be removed from the street site to a depth of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below, or a Maine Department of Transportation approved stabilization geotextile may be used.

4. Except in a ledge cut, side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, loamed, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge a side slope no steeper than one foot horizontal to four feet vertical is permitted.
5. All underground utilities shall be installed prior to paving to avoid cuts in the pavement . Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

b. Bases and Pavement.

1.. Bases/Subbase.

- (a) The Aggregate subbase course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three inch square mesh sieve shall meet the grading requirements of Table 10.15-5.

Aggregate for the subbase shall contain no particles of rock exceeding six inches in any dimension.

- (b) If the Aggregate Subbase Course is found to be not fine-gradable because of larger stones, then a minimum of three inches of Aggregate Base Course shall be placed on top of the subbase course. The Aggregate Base Course shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three inch square mesh sieve shall meet the grading requirements of Table 10.15-6.

Aggregate for the base shall contain no particles of rock exceeding two inches in any dimension.

Table 10.15-5 Aggregate Subbase Grading Requirements	
Sieve Designation Sieves	Percentage by Weight Passing Square Mesh
1/4 inch	25 - 70%
No. 40	0 - 30%
No. 200	0 - 7%

Table 10.15-6 Base Course Grading Requirements	
Sieve Designation	Percentage by Weight Passing Square Mesh Sieves
1/2 inch	45 - 70%
1/4 inch	30 - 55%
No. 40	0 - 20%
No. 200	0 - 5%

2. Pavement Joints.

Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.

3. Pavements.

- (a) Minimum standards for the base layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade B with an aggregate size no more than 1 inch maximum and a liquid asphalt content between 4.8% and 6.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and November 15, provided the air temperature in the shade at the paving location is 35°F or higher and the surface to be paved is not frozen or unreasonably wet.
- (b) Minimum standards for the surface layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade C or D with an aggregate size no more than 3/4 inch maximum and a liquid asphalt content between 5.8% and 7.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and October 15, provided the air temperature in the shade at the paving location is 50°F or higher.

ARTICLE 11 - PERFORMANCE GUARANTEES

11.1 Types of Guarantees.

With submittal of the application for final plan approval, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

- A. Either a certified check payable to the municipality or a savings account or certificate of deposit naming the municipality as owner, for the establishment of an escrow account;
- B. A performance bond payable to the municipality issued by a surety company, approved by the municipal officers, or town manager; or
- C. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Municipality may draw if construction is inadequate, approved by the municipal officers, or town manager.

The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the road commissioner, municipal officers, and/or municipal attorney.

11.2 Contents of Guarantee.

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the applicant will be in default and the municipality shall have access to the funds to finish construction.

11.3 Escrow Account.

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the applicant, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the applicant unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the applicant and the amount withdrawn to complete the required improvements.

11.4 Performance Bond.

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision for which approval is sought.

11.5 Letter of Credit

An irrevocable letter of credit from a bank or other lending institution with offices in the region, shall indicate that funds have been set aside for the construction of the subdivision for the duration of the project and may not be used for any other project or loan.

11.6 Phasing of Development.

The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

11.7 Release of Guarantee.

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of a qualified individual retained by the municipality and any other agencies and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.

11.8 Default.

If upon inspection by a qualified individual retained by the municipality finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the code enforcement officer, the municipal officers, the Board, and the applicant or builder. The municipal officers shall take any steps necessary to preserve the municipality's rights.

11.9 Improvements Guaranteed.

Performance guarantees shall be tendered for all improvements required to meet the standards of these regulations and for the construction of the streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures.

ARTICLE 12 - WAIVERS

12.1 Waivers of Certain Submission Requirements Authorized.

Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, or that the application is simple and minor in nature, it may waive portions of the submission requirements, unless prohibited by these regulations or Maine statutes, provided the applicant has demonstrated that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the zoning ordinance, or these regulations.

12.2 Waivers of Certain Improvements Authorized.

Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the zoning ordinance, or these regulations, and further provided the performance standards of these regulations and the criteria of the subdivision statute have been or will be met by the proposed subdivision.

12.3 Waiver of Procedural Steps

The Board may allow an applicant to combine the final plan and preliminary plan application steps into one procedure, upon making all of the following written findings of fact:

1. No new streets are proposed;
2. No approvals are required from the Maine Department of Environmental Protection under the Site Location of Development Act, Stormwater Law, or Natural Resources Protection Act, other than a "Permit by Rule;"
3. The Board agrees to approve a waiver from the requirement to submit a stormwater management plan and sedimentation and erosion control plan, as ordinarily required by sections 6 or 7; and
4. The application contains all other applicable submissions required for both the preliminary and final plan steps, except for those items for which a waiver of a required submission has been requested and granted.

12.4 Conditions for Waivers.

Waivers may only be granted in accordance with Sections 12.1, 12.2 and 12.3. When granting waivers, the Board shall set conditions so that the purposes of these regulations are met.

12.5 Waivers to be shown on final plan.

When the Board grants a waiver to any of the improvements required by these regulations, the final plan, to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.

ARTICLE 13 - APPEALS

13.1 Appeals to Superior Court.

An aggrieved party may appeal any decision of the Board under this ordinance to the Waldo County Superior Court, within thirty days of the date the Board issues a written order of its decision, in accordance with Rule 80B of Maine Rules of Court.

ARTICLE 14 - VALIDITY, EFFECTIVE DATE, CONFLICT OF ORDINANCES, AND FILING

14.1 Should any section or provision of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this ordinance, and to this end, the provisions of this ordinance are hereby declared to be severable.

14.2 The effective date of this ordinance is March 5, 2011.

14.3 Upon adoption, this ordinance shall repeal and supercede any and all prior municipal subdivision ordinances and regulations; however, this ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit or provision of law. Where this ordinance imposes a higher standard for the promotion and the protection of health and safety, the provisions of this ordinance shall prevail.

14.4 A certified copy of this ordinance shall be filed with the Register of Deeds, according to the requirements of State Law.

FLOODPLAIN MANAGEMENT ORDINANCE

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Certain areas of the Town of Searsport, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Searsport, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Searsport, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Searsport has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Searsport having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Searsport, Maine.

The areas of special flood hazard, A, AE, and VE, are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Searsport, Maine, Waldo County," dated May 17, 1990 with accompanying "Flood Insurance Rate Map" dated May 17, 1990 which are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

Before any construction or other development (as defined in Article XIV), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer except as provided in Article VII. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Searsport, Maine.

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;

F. A statement as to the type of sewage system proposed;

G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.3. apply only to new construction and substantial improvements.]

H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:

1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zones AE and VE from data contained in the "Flood Insurance Study - Town of Searsport, Maine," as described in Article I; or,
 - b. in Zone A:
 - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI.K. and IX.D.;
 - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
 - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
 - (4) in coastal zones use the *U.S. Army Corps of Engineers' Tidal Flood Profiles New England Coastline*, September 1988 to select the 100-year Frequency Tidal Flood appropriate for the development site's location on the profile.
 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;

- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate
- K. The following certifications as required in Article VI by a registered professional engineer or architect:
 - 1. a Floodproofing Certificate (FEMA Form 81-65, 03/09, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
 - 2. a V-Zone Certificate to verify that the construction in coastal high hazard areas, Zones VE, will meet the criteria of Article VI.P.; and other applicable standards in Article VI;
 - 3. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
 - 4. a certified statement that bridges will meet the standards of Article VI.M.;
 - 5. a certified statement that containment walls will meet the standards of Article VI.N.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

The Searsport Board of Selectmen establish fees for application and they are available at the Town Office. All fees shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
 - 1. the base flood and floodway data contained in the "Flood Insurance Study - Town of Searsport, Maine," as described in Article I.;
 - 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article IX.D., in order to administer Article VI of this Ordinance; and,
 - 3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits, based on the type of development:
 - 1. A two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with a Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, H, or P. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
 - 2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated

but that meet the floodproofing standards of Article VI.G.1.a.,b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,

3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in Article VII.

- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article X of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VIII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

A. All Development - All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. use construction materials that are resistant to flood damage;
3. use construction methods and practices that will minimize flood damage; and
4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during flooding conditions.

B. Water Supply - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

- C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. **On Site Waste Disposal Systems** – On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. **Residential** - New construction or substantial improvement of any residential structure located within:
1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
 2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D.
 3. Zone VE shall meet the requirements of Article VI.P.
- G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within:
1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
 2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D., or

- a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.

2. Zone VE shall meet the requirements of Article VI.P.

H. Manufactured Homes - New or substantially improved manufactured homes located within:

1. Zone AE shall:

- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
- b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
- c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
 - (3) all components of the anchoring system described in Article VI.H.1.c.(1)&(2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:

- a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article IX.D.; and
- b. meet the anchoring requirements of Article VI.H.1.c.

3. Zone VE shall meet the requirements of Article VI.P.

I. Recreational Vehicles - Recreational Vehicles located within:

1. Zones A and AE, shall either:

- a. be on the site for fewer than 180 consecutive days,

- b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
- c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1.

2. Zone VE shall meet the requirements of either Article VI.I.1.a. or b., or Article VI.P.

J. Accessory Structures - Accessory Structures, as defined in Article XIV, located within Zones A and AE, , shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

- 1. be 500 square feet or less and have a value less than \$3000;
- 2. have unfinished interiors and not be used for human habitation;
- 3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
- 4. be located outside the floodway;
- 5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
- 6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. Floodways -

- 1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's "Flood Insurance Rate Map" unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 2. In Zones A and AE, riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

- a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 - b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/ January 1995, as amended).
3. In Zones A and AE, riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

L. Enclosed Areas Below the Lowest Floor - New construction or substantial improvement of any structure in Zones A and AE, that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Article XIV;
2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - a. be engineered and certified by a registered professional engineer or architect; or,
 - b. meet or exceed the following minimum criteria:
 - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
 - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;

3. The enclosed area shall not be used for human habitation; and,
4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

M. Bridges - New construction or substantial improvement of any bridge in Zones A, AE, and VE shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
2. a registered professional engineer shall certify that:
 - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
 - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

N. Containment Walls - New construction or substantial improvement of any containment wall located within:

1. Zones A, AE, and VE shall:
 - a. have the containment wall elevated to at least one foot above the base flood elevation;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

O. Wharves, Piers and Docks - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A, AE, and VE, in and over water and seaward of the mean high tide if the following requirements are met:

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

P. Coastal Floodplains -

1. All new construction located within Zones A, AE, and VE shall be located landward of the reach of mean high tide except as provided in Article VI.P.6.
2. New construction or substantial improvement of any structure located within Zones VE shall:
 - a. be elevated on posts or columns such that:

- (1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation;
- (2) the pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,
- (3) water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.

b. have the space below the lowest floor:

- (1) free of obstructions; or,
- (2) constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,
- (3) constructed with non-supporting breakaway walls that have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.

c. require a registered professional engineer or architect to:

- (1) develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the Coastal Construction Manual, (FEMA-55/June, 2000); and,
- (2) certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Article VI.P.2.

3. The use of fill for structural support in Zone VE is prohibited.
4. Human alteration of sand dunes within Zone VE is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.
5. The area below the lowest floor shall be used solely for parking vehicles, building access, and storage.
6. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Article VI.G. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.K., and VI.L. are met:
 - a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.

- b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
- c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.
- d. The structure shall have unfinished interiors and shall not be used for human habitation.
- e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.
- f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

ARTICLE VII - CONDITIONAL USE REVIEW

The Planning Board shall hear and decide upon applications for conditional uses provided for in this Ordinance. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Code Enforcement Officer that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

A. Review Procedure for a Conditional Use Flood Hazard Development Permit

- 1. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied, may serve as the permit application for the Conditional Use Permit.
- 2. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.
- 3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.
- 4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.
- 5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

B. Expansion of Conditional Uses

- 1. No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued

ARTICLE VIII - CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer:
 - 1. an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, H, or P and,
 - 2. for structures in Zone VE, certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with Article VI.P.2.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
 - 1. review the required certificate(s) and the applicant's written notification; and,
 - 2. upon determination that the development conforms to the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE IX - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law, local ordinances or regulations, and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided in order to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE X - APPEALS AND VARIANCES

The Board of Appeals of the Town of Searsport may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
1. a showing of good and sufficient cause; and,
 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
 3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
 - c. that the granting of a variance will not alter the essential character of the locality; and,
 - d. that the hardship is not the result of action taken by the applicant or a prior owner.

- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as is deemed necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
 - 1. other criteria of Article X and Article VI.K. are met; and,
 - 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
 - 1. the development meets the criteria of Article X, paragraphs A. through D. above; and,
 - 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article X, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
 - 1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
 - 2. such construction below the base flood level increases risks to life and property; and,
 - 3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.
- G. Appeal Procedure for Administrative and Variance Appeals
 - 1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
 - 2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

ARTICLE XI - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to other actions, the Code Enforcement Officer (CEO may, upon identifying a violation, submit a declaration to the Administrator of the Federal Insurance Administration requesting a flood insurance denial. The valid declaration shall consist of;
 1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
 3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
 4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
 5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XII - VALIDITY AND SEVERABILITY

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

ARTICLE XIII - CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE XIV - DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law, and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Accessory Structure - a small detached structure that is incidental and subordinate to the principal structure.

Adjacent Grade - the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of Special Flood Hazard - land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

Base Flood - a flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement - area of a building that includes a floor that is subgrade (below ground level) on all sides.

Breakaway Wall - a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Building - see **Structure**.

Certificate of Compliance - a document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Code Enforcement Officer - a person certified under Title 30-A MRSA, Section 4451 (including exceptions in Section 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws.

Conditional Use - a use that, because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Article VII.

Containment Wall - wall used to convey or direct storm water or sanitary water from the initial source to the final destination.

Development - a manmade change to improved or unimproved real estate. This includes, but is not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials.

Elevated Building - a non-basement building that is:

- a. built, in the case of a building in Zones A or AE, so that the top of the elevated floor, or in the case of a building in Zone VE to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored to not impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A or AE, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L. In the case of Zone VE, **Elevated Building** also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Article VI.P.2.b.(3).

Elevation Certificate - an official form (FEMA Form 81-31, 03/09, as amended) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- b. Is required for purchasing flood insurance.

Flood or Flooding -

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters.
 2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

Flood Elevation Study - an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) - an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study - see **Flood Elevation Study**.

Floodplain or Floodprone Area - land area susceptible to being inundated by water from any source (see flooding).

Floodplain Management - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations - zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway - see **Regulatory Floodway**.

Floodway Encroachment Lines - the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard - a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, which could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use - a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic Structure - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior, or
2. Directly by the Secretary of the Interior in states without approved programs.

Locally Established Datum - for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lowest Floor - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.L. of this Ordinance.

Manufactured Home - a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level - when related to the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Minor Development - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

National Geodetic Vertical Datum (NGVD) - the national vertical datum, a standard established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD is based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

New Construction - structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

North American Vertical Datum (NAVD) - means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

100-year flood - see **Base Flood**.

Recreational Vehicle - a vehicle that is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway -

- a. the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine - relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area - see **Area of Special Flood Hazard**.

Start of Construction - the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the Board of Appeals.

Variance - means a grant of relief by a community from the terms of a floodplain management regulation.

Violation - means the failure of a structure or development to comply with a community's floodplain management regulations.

ARTICLE XV - ABROGATION

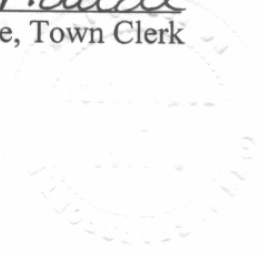
This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

Prepared 11/30/11 by
SPO/fpm/jp

I, Deborah Plourde, the duly appointed Town Clerk for the Town of Searsport, hereby certify pursuant to 30-A M.R.S.A. § 3006 that the above is the true and accurate Floodplain Management Ordinance as enacted by the voters of the Town of Searsport at a duly called Town Meeting held on March 10, 2012.

3/13/2012
Date

Deborah Plourde
Deborah Plourde, Town Clerk



SHORELAND ZONING ORDINANCE

Town of Searsport, Maine

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SHORELAND ZONING ORDINANCE FOR THE TOWN OF SEARSPORT

SECTION 1. PURPOSES

The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

SECTION 2. AUTHORITY

This Ordinance has been prepared in accordance with the provisions of Title 38 §§ 435-449, inclusive, of the Maine Revised Statutes Annotated (M.R.S.A.).

SECTION 3. APPLICABILITY

This Ordinance applies to all land areas within 250 feet horizontal distance, of the

- normal high-water line of any great pond or river,
- upland edge of a coastal wetland, including all areas affected by tidal action, or
- upland edge of a freshwater wetland,

and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending below the normal high-water line of a water body or within a wetland.

SECTION 4. EFFECTIVE DATE

A. Effective Date of Ordinance and Ordinance Amendments This Ordinance, which was adopted by the municipal legislative body on MARCH 16, 1991, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance within forty-five (45) days of his/her receipt of the Ordinance or Ordinance Amendment, it shall be automatically approved.

Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

B. Repeal of Municipal Timber Harvesting Regulation.

The Municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A. Section 438-A(5), the following provisions of this Ordinance are repealed:

- Section 14. Table of Land Uses, row 3 (Forest management activities except timber harvesting and land management roads) and row 4 (Timber harvesting);
- Section 15(O) in its entirety; and
- Section 17. Definitions, the definitions of "forest management activities" and "residual basal area"

SECTION 5. AVAILABILITY

A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

SECTION 6. SEVERABILITY

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

SECTION 7. CONFLICTS WITH OTHER ORDINANCES

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.

SECTION 8. AMENDMENTS

This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

SECTION 9. DISTRICTS AND ZONING MAP

A. Official Shoreland Zoning Map

The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made parts of this Ordinance:

1. Resource Protection
2. Stream Protection
3. Halfmoon Pond District
4. Limited Residential
5. Limited Commercial I
6. Limited Commercial II
7. General Development I
8. General Development II
9. Commercial Fisheries/Maritime Activities

B. Scale of Map

The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2,000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

C. Certification of Official Shoreland Zoning Map

The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.

D. Changes to the Official Shoreland Zoning Map

If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

SECTION 10. INTERPRETATION OF DISTRICT BOUNDARIES

Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

SECTION 11. LAND USE REQUIREMENTS

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

SECTION 12. NON-CONFORMANCE

A. Purpose

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

B. General

1. Transfer of Ownership:

Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.

2. Repair and Maintenance:

This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

C. Non-conforming Structure

1. Expansions:

A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure, and is in accordance with subparagraphs (a) and (b) below:

(a) Legally existing non-conforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as all other applicable standards contained in the Ordinance are met.

i. Expansion of any portion of a structure within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement. In the Half moon Pond District, any expansion or new development is prohibited within 75 feet of the normal high water line.

ii. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.

iii. For structures located less than 75 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total floor area for all portions of those structures within that 75-foot distance is 1,000 square feet and the maximum height of any portion of a structure that is within 75 feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is 20 feet or the height of the existing structure, whichever is greater.

iv. For structures located less than 100 feet, horizontal distance, from the normal high-water line of a great pond classified as GPA, or a river flowing to a great pond classified as GPA, the maximum combined total floor area for all portions of those structures within the 100-foot distance is 1500 square feet, and the maximum height of any portion of a structure that is within 100 feet, horizontal distance of a great pond is 25 feet or the height of the existing structure whichever is greater except that any portion of those structures located less than 75 feet, horizontal distance from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland must meet the floor area and height limits of division (iii). In the Halfmoon Pond District, the maximum combined total floor area for all structures is 750 square feet, and the maximum height is 25 feet or the height of the existing structure, whichever is greater.

v. In the Halfmoon Pond District for all structures located between 100 and 250 feet, horizontal distance, of the normal high water line, the maximum combined total floor area is 1500 square feet; and the maximum height of any structure is 25 feet or the height of the existing structure, whichever is greater. For the purpose of Section 12(C)(1)(a), a basement is not counted toward floor area.

(b) Whenever a new, enlarged or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure and

foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure, it shall not be considered to be an expansion of the structure.

2. Relocation: A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming. In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

(a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

(b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

3. Reconstruction or Replacement: Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming floor area of the reconstructed or replaced structure at its new location. If the total amount of floor area of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(2) above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged, or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal. In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent, the Planning Board or its designee shall consider, in addition to the criteria in Section 12(C)(2) above, the physical condition and type of foundation present, if any.

4. Change of Use of a Non-conforming Structure

The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

D. Non-conforming Uses

1. Expansions

Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1)(a) above.

2. Resumption Prohibited

A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

3. Change of Use

An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the CFMA district, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(4) above.

E. Non-conforming Lots

1. Non-conforming Lots

A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

2. Contiguous Built Lots

If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A sections 4807- A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this Ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided, each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

3. Contiguous Lots -Vacant or Partially Built

If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure, the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

(a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or

- (b) Any lots that do not meet the frontage and lot size requirements of Section 12(E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

SECTION 13. ESTABLISHMENT OF DISTRICTS

A. Resource Protection District

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Residential, Limited Commercial, General Development I, or Commercial Fisheries/Maritime Activities Districts need not be included within the Resource Protection District.

1. Areas within 250 feet horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows and wetlands associated with great ponds and rivers, which are rated “moderate” or “high” value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department. Moderate and high value coastal wetlands are identified as of January 1, 1973. Moderate and high value freshwater wetlands are identified as of March 3, 2008. For the purposes of this paragraph, “wetlands associated with great ponds and rivers” shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. “Wetlands associated with great ponds or rivers” are considered to be part of that great pond or river. The maps are to be used for reference purposes only and do not represent authoritative locations or display features. If a landowner believes their property has been incorrectly rated, they may request an onsite evaluation and determination by the Maine Department of Inland Fisheries & Wildlife.
2. Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the 100 year flood plain as designated on the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils. This district shall also include 100 year flood plains adjacent to tidal waters as shown on FEMA’s Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
3. Areas of two or more contiguous acres with sustained slopes of 20% or greater.
4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not superficially connected to a water body during the period of normal high water.
5. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

B. Stream Protection District

The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area is located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

C. Halfmoon Pond District

The Halfmoon Pond District includes those areas immediately adjacent to and within two hundred and fifty (250) feet from the high water line of Halfmoon Pond, which is a source of public potable water for Searsport and Stockton Springs. As such, residential dwelling units may not be occupied for more than 180 days in any given year.

D. Limited Residential District

The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District or Stream Protection District, and areas which are used less intensively than those in the General Development Districts, Commercial Fisheries/Maritime Activities District, Limited Commercial Districts or Halfmoon Pond District.

E. Limited Commercial District I, The Limited Commercial District I includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the General Development Districts. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

F. Limited Commercial District II

The Limited Commercial District II includes areas of mixed light commercial and residential uses which should not be developed as intensively as the General Development Districts. This district is devoted to a mix of low intensity business and commercial uses. Industrial uses are prohibited. The minimum setback for structures shall be 25 feet horizontal distance from the normal high water line of great ponds classified GPA, other water bodies, tributary streams or the upland edge of a wetland. Total footprint of all structures, parking lots and non vegetated surfaces within the shoreland zone shall not exceed 70% of the lot or a portion thereof located within the same shoreland zone.

G. General Development I District

The General Development I District includes the following types of existing, intensively developed areas:

1. Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:
 - a. Areas devoted to manufacturing, fabricating or other industrial activities;
 - b. Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and
 - c. Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, racetracks and fairgrounds.
2. Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

H. Commercial Fisheries/Maritime Activities District

The Commercial Fisheries/Maritime Activities District includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in the Table of Land Uses. Section 14, and other areas which are suitable for functionally water dependent uses taking into consideration such factors as:

1. Shelter from prevailing winds and waves;
2. Slope of land within 250 feet, horizontal distance, of the shoreline;
3. Depth of water within 150 feet, horizontal distance, of the shoreline;
4. Available support facilities including utilities and transportation facilities; and
5. Compatibility with adjacent upland uses.

I. General Development II District

The General Development II District includes the same types of areas as those listed for the General Development I District. The General Development II District, however, shall be applied to newly established General Development Districts where the pattern of development at the time of adoption is undeveloped or not as intensively developed as that of the General Development I District.

In areas adjacent to great ponds classified GPA and adjacent to rivers flowing to great ponds classified GPA, the designation of an area as a General Development District shall be based upon uses existing at the time of adoption of this Ordinance. There shall be no newly established General Development Districts or expansions in areas of existing General Development Districts adjacent to great ponds classified GPA, and adjacent to rivers that flow to great ponds classified GPA.

SECTION 14. TABLE OF LAND USES

All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

Key to Table 1:

Yes - Allowed (no permit required but the use must comply with all applicable land use standards.)

No - Prohibited

PB - Allowed with permit issued by the Planning Board

CEO - Allowed with permit issued by the Code Enforcement Officer

LPI - Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

SP- Stream Protection **RP** - Resource Protection **LR** -Limited Residential **LC** - Limited Commercial I & II

GD -General Development I & II **CFMA** - Commercial Fisheries/Maritime Activities **HP** – Halfmoon Pond

LAND USES				DISTRICTS								
				SP	RP	LR	LC	I&II	GD	I&II	CFMA	HP
1. Non-intensive recreational uses not requiring structures such as hunting, fishing, etc.				yes	yes	yes		yes		yes	yes	yes
2. Motorized vehicular traffic on roads and trails				yes	yes	yes		yes		yes	yes	yes
3. Forest management activities, except timber harvesting				yes	yes	yes		yes		yes	yes	yes
4. Timber harvesting				yes	CEO ¹	yes		yes		yes	yes	yes
5. Clearing or removal of vegetation for activities other than timber harvesting				CEO	CEO ¹	yes		yes		yes	yes	CEO
6. Fire prevention activities				yes	yes	yes		yes		yes	yes	yes
7. Wildlife management practices				yes	yes	yes		yes		yes	yes	yes
8. Soil and water conservation practices				yes	yes	yes		yes		yes	yes	yes
9. Mineral exploration		no			yes ²	yes ²		yes ²		yes ²	yes ²	yes ²
10. Mineral extraction, including sand and gravel				no	PB ³	PB		PB	PB	PB	no	
11. Surveying and resource analysis				yes	yes	yes		yes		yes	yes	yes
12. Emergency operations				yes	yes	yes		yes		yes	yes	yes
13. Agriculture		yes			PB	yes		yes		yes	yes	no
14. Aquaculture		PB			PB	PB		yes		yes	yes	no
15.Principal structures and uses:												
A. One and two family residential				PB ⁴	PB ⁹	PB		PB	no		no	PB
B. Multi-family residential, including driveways				no	no	PB		PB		no	no	no
C. Commercial				no	no	no ¹⁰		PB		PB	PB ⁵	no
D. Industrial				no	no	no		no		PB	PB ⁵	no
E. Government and institutional		no			no	no		PB		PB	PB ⁵	no
F. Small non-residential facilities for education, scientific or nature interpretation		no			no	no		PB		PB	PB ⁵	no
16. Structures accessory to allowed uses				PB ⁴	PB	PB	PB			yes	yes	PB
17.Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line or within a wetland:												
A. Temporary				CEO	CEO	CEO	CE		O	CEO	CEO	CEO
B. Permanent		PB			PB	PB		PB		PB	PB	PB
18. Conversions of seasonal to year-round residences				LPI	no	LPI		LPI		no	no	no
19. Home Occupations		PB			no	PB		CEO		PB	no	no
20. Private sewage disposal systems for allowed uses				LPI	no	LPI		LPI		LPI	LPI	PB
21. Essential services												
A. Roadside Distribution lines (34.5 vK or lower)				CEO ⁶	CEO ⁶	yes ¹¹		yes ¹¹		yes ¹¹	yes ¹¹	PB ⁶
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone				PB ⁶	PB ⁶	CEO		CEO		CEO	CEO	PB ⁶
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shortland zone				PB ⁶	PB ⁶	PB		PB	PB	PB	PB	⁶
D. Other essential services		PB		⁶	PB ⁶	PB		PB	PB	PB	PB	⁶
22. Service drops, as defined, to allowed uses				yes	yes	yes		yes		yes	yes	yes
23. Public and private recreational areas involving minimal structural development												
				PB	PB	PB		CEO		CEO	CEO ⁵	no
24. Individual private campsites				no	no	CEO		no		no	no	PB
25. Campgrounds		no			no	PB ¹⁰		PB		PB	no	no
26. Road construction		PB			no ⁸	PB		PB	PB	PB	⁵	PB

<u>LAND USES</u>			<u>DISTRICTS</u>						
			<u>SP</u>	<u>RP</u>	<u>LR</u>	<u>LC I & II</u>	<u>GD I & II</u>	<u>CFMA</u>	<u>HP</u>
27. Parking facilities	no			no ⁷	PB	PB PB PB		⁵	no
28. Marinas	no			no	PB	PB	PB	PB	no
29. Filling and earthmoving of <10 cubic yards			CEO	CEO	yes	yes	yes	yes	PB
30. Filling and earthmoving of >10 cubic yards			PB	PB	CEO	CEO	CEO	CEO	PB
31. Signs	y		es ¹²	CEO ¹²	yes ¹²	PB ¹²	PB	PB yes	¹²
32. Uses similar to allowed uses		CEO		CEO	CEO	CEO	CEO	CEO	CEO
33. Uses similar to uses requiring CEO permit			CEO	CEO	CEO	CEO CE	O	CEO	CEO
34. Uses similar to uses requiring PB permit			PB	PB	PB	PB	PB	PB	PB
35. Land Management Roads			yes	CEO ¹	yes	yes	yes	yes	yes

- ¹ In RP not allowed within 75 feet, horizontal distance, of the normal high-water line of great pond, except to remove safety hazards,
- ² Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.
- ³ In RP not allowed in areas so designated because of wildlife value.
- ⁴ Provided that a variance from the setback requirement is obtained from the Board of Appeals.
- ⁵ Functionally water-dependent uses and uses accessory to such water-dependent uses only
- ⁶ See further restrictions in Section 15(L) (2)
- ⁷ Except when area is zoned for resource protection due to flood plain criteria in which case a permit is required from PB.
- ⁸ Except as provided in Section 15(H) (3)
- ⁹ Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.
- ¹⁰ Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.
- ¹¹ Permit not required but must file a written "notice of intent to construct" with CEO.
- ¹² See Sec. 15(I)

Note: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38, MRSA, section 480-C, if the activity occurs in, on, over or adjacent to any fresh-water or coastal wetland, great pond, river, stream or brook and operates in such a manner that material on soil may be washed into them:

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- B. Draining or otherwise dewatering;
- C. Filling, including adding sand or other material to a sand dune; or
- D. Any construction or alteration of any permanent structure.

SECTION 15. LAND USE STANDARDS

All land use activities within the shoreland zone shall conform with the following provisions, if applicable:

A. Minimum Lot Standards

1.	Minimum Lot Area (sq.ft.)	Minimum Shore Frontage (ft.)
<u>(a) Residential per dwelling unit</u>		
i. Within the Shoreland Zone Adjacent to Tidal Areas	30,000	150
ii. Within the Shoreland Zone Adjacent to Non-Tidal Areas	40,000	200
<u>(b) Governmental, Institutional, Commercial or Industrial per principal structure</u>		
i. Within the Shoreland Zone Adjacent to Tidal Areas Exclusive of Those Areas Zoned for Commercial Fisheries and Maritime Activities	40,000	200
ii. Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities	NONE	NONE
iii. Within the Shoreland Zone Adjacent to Non-tidal Areas	60,000	300
<u>(c) Public and Private Recreational Facilities</u>		
i. Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	40,000	200

2. Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

3. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.

4. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

5. If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure or use.

6. Clustered housing within the shoreland zone may be permitted, provided that the overall dimensional requirements, including frontage and lot area per dwelling unit, are met. When determining whether dimensional requirements are met, only land area within the shoreland zoning shall be considered.

B. Principal and Accessory Structures

1. All new principal and accessory structures shall be set back at least 100 feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and at least 75 feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development District I District, the set-back from the normal high-water line shall be at least 25 feet, horizontal distance, and in the Commercial Fisheries/Maritime Activities District, there shall be no minimum setback. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

In addition:

- a. The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
 - b. This subsection intentionally left blank.
 - c. For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of the “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.
 - d. On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.
2. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
3. The lowest floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.
4. The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone, shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except in the General Development District adjacent to tidal waters and rivers that do not flow to great ponds classified GPA, and in the Commercial Fisheries/Maritime Activities District where lot coverage shall not exceed seventy (70) percent.
5. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
- a. The site has been previously altered and an effective vegetated buffer does not exist;
 - b. The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge or a wetland;
 - c. The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of

- naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - d. The total height of the wall(s), in the aggregate, are no more than 24 inches;
 - e. Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood or record, or in the absence of these, by soil types identified as recent flood plain soils.
 - f. The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
 - g. A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - i. The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - ii. Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration or stormwater runoff;
 - iii. Only native species may be used to establish the buffer area;
 - iv. A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - v. A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer.
5. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided; that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38, MRSA section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
2. The location shall not interfere with existing developed or natural beach areas.
3. The facility shall be located so as to minimize adverse effects on fisheries.
4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses, of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.
5. No new structure shall be built on, over, or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
6. New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
7. No existing structures built on, over, or abutting a pier, dock, wharf or other structure extending below the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
8. Except in the General Development Districts and Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

NOTE: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 MRSA section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

D. Campgrounds

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

1. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

E. Individual Private Campsites

Individual, private campsites not associated with campgrounds are allowed provided the following conditions are met:

1. One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
3. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure except canopy shall be attached to the recreational vehicle.
4. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1,000) square feet.
5. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Code Enforcement Officer and Licensed Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
6. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by a public sewage system. In the case of recreational vehicles with internal plumbing, existing Department of Human Services regulations may require that an approved subsurface sewage disposal system be immediately installed.

F. Commercial and Industrial Uses

The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds:

1. Auto washing facilities
2. Auto or other vehicle service and/or repair operations, including body shops
3. Chemical and bacteriological laboratories
4. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms
5. Commercial painting, wood preserving, and furniture stripping
6. Dry cleaning establishments
7. Electronic circuit assembly
8. Laundromats, unless connected to a sanitary sewer
9. Metal plating, finishing, or polishing
10. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
11. Photographic processing
12. Printing

G. Parking Areas

1. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Commercial Fisheries/Maritime Activities District parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities, in Districts other than the General Development I District and Commercial Fisheries/Maritime Activities Districts shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
3. In determining the appropriate size of proposed parking facilities, the following shall apply:
 - a. Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for vehicle and boat trailer shall be forty (40) feet long.
 - b. Internal travel aisles: Approximately twenty (20) feet wide.

H. Roads and Driveways

The following standards shall apply to the construction of roads, driveways, and drainage systems, culverts and other related features:

1. Roads and driveways shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond, and at least seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road, and/or driveway setback requirements shall be no less than fifty (50) feet, horizontal distance, upon a clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such activities may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream or wetland.

On slope greater than 20 percent, the road, and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above 20 percent.

Section 15(H)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.

2. Existing public roads may be expanded within the legal right-of-way regardless of its setback from a water body, tributary stream or wetland.
3. New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as is practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
4. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(Q).
5. Road and driveway grades shall be no greater than ten (10) percent except for segments of less than 200 feet.
6. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two times the average slope in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
7. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
 - a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway, at intervals no greater than indicated in the following table:

<u>Grade (Percent)</u>	<u>Spacing (Feet)</u>
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

- b. Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
 - c. On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
 - d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
8. Ditches, culverts, bridges, dips, water turnout and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

I. Signs

The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, Halfmoon Pond, Limited Commercial and Limited Residential Districts:

- 1. Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
- 2. Name signs are allowed provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
- 3. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- 4. Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- 5. Signs relating to public safety shall be allowed without restriction.
- 6. No sign shall extend higher than twenty (20) feet above the ground.
- 7. Signs may be illuminated only by shielded, non-flashing lights.

J. Storm Water Runoff

- 1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.
- 2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

K. Septic Waste and Gray water Disposal

- 1. All subsurface sewage and gray water disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules and the following:
 - a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge or a wetland and
 - b) a holding tank is not allowed for a first-time residential use in the shoreland zone.
- 2. Setback requirements in the Halfmoon Pond District shall be no less than two hundred fifty (250) feet from the normal high-waterline of Halfmoon pond.

L. Essential Services

- 1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- 2. The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection District, Stream Protection District or the Half-moon Pond District, except to provide services to a permitted use within said district(s), or except where the applicant demonstrates that no reasonable alternative exists.

Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

3. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

M. Mineral Exploration and Extraction

Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with, and approved by, the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15(M)(4) below.
2. No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line, without written permission of the owner of such adjacent property.
3. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - a. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
 - b. The final graded slope shall be two and one-half to one (2 1/2 :1) slope or flatter.
 - c. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
4. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

N. Agriculture

1. All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
2. Manure shall not be stored or stockpiled within 250 feet, horizontal distance, of Halfmoon Pond, or 100 feet, horizontal distance, of any great pond classified GPA or a river flowing to a great pond classified GPA, or within 75 feet, horizontal distance, of other water bodies, tributary streams, or wetland. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge or effluent or contaminated storm water.
3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
4. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.
5. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies and coastal wetlands, nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are

not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

O. Timber Harvesting

1. In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:
 - (a). Within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:
 - (1) The ground is frozen;
 - (2) There is no resultant soil disturbance;
 - (3) The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
 - (4) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured 4½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and
 - (5) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.
 - (b). Beyond the 75 foot strip referred to in Section 15(O)(1)(a) above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4½ feet above ground level be reduced to less than 30 square feet per acre.
2. Except in areas as described in Section 15(O)(1)(a) above, timber harvesting shall conform with the following provisions:
 - (a). Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4½ feet above ground level on any lot in any ten (10) year period is permitted. In addition:
 - (i) Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
 - (ii) At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5,000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.
 - (b). Timber harvesting operations exceeding the 40% limitation in Section 15(O)(2)(a) above, may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.
 - (c). No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.
 - (d). Timber harvesting equipment shall not use stream channels as travel routes except when:
 - (i) Surface waters are frozen; and
 - (ii) The activity will not result in any ground disturbance.
 - (e). All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
 - (f). Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and

culverts shall be removed and areas of exposed soil revegetated.

(g). Except for water crossings, skid trains and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance.

The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

P. Clearing or removal of Vegetation for Activities Other Than Timber Harvesting 1. In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

2. Except in areas as described in Section (P)1, above, and except to allow for the development of permitted uses within a strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

a. There shall be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

b. Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(P)(2)(b) a “well-distributed stand of trees” adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system:

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 - <4 in.	1
4 - <8 in.	2
8 - <12 in.	4
12 in. or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a “well-distributed stand of trees” is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

The following shall govern in applying this point system:

i. The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;

ii. Each successive plot must be adjacent to, but not overlap a previous plot;

iii. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;

iv. Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;

v. Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 15(P)(2)(b) “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have

been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4-1/2 feet above ground level, may be removed in any ten (10) year period.

c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including a leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs 2 and 2a above.

d. Pruning of tree branches, on the bottom of 1/3 of the tree is allowed.

e. In order to maintain a buffer strip of vegetation when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, the se openings shall be replanted with native tree species unless existing new tree growth is present.

Section 15(P)(2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

3. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4-1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose including but not limited to principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to General Development or Commercial Fisheries/Maritime Activities Districts.

4. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.

5. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15(P).

Q. Erosion and Sedimentation Control

1. All activities which involve filling, grading, excavation, or other similar activities which result in unstabilized soil conditions and which require a permit, shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

a. Mulching and revegetation of disturbed soil.

b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

c. Permanent stabilization structures such as retaining walls or rip-rap.

2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible and natural contours shall be followed as closely as possible.

3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases, permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.

b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

5. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap

R. Soils

All land uses shall be located in soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

S. Water Quality

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.

T. Archaeological Sites

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

SECTION 16. ADMINISTRATION

A. Administering Bodies and Agents

1. Code Enforcement Officer

A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.

2. Board of Appeals

A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691

3. Planning Board

A Planning Board shall be created in accordance with the provisions of State law.

B. Permits Required

After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

1. A permit is not required for the replacement of an existing road culvert as long as:

- a. The replacement culvert is not more than 25% longer than the culvert being replaced;
- b. The replacement culvert is not longer than 75 feet; and

c. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the water-course.

2. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

3. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. Permit Application

1. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14. The appropriate fee, as determined by a fee schedule promulgated by the Municipal Officers upon Planning Board recommendation, shall accompany said application.
2. All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
3. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
4. If the property is not served by a public sewer, a valid plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

D. Procedure for Administering Permits

Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if one is held. Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

After the submission of a complete application to the Planning Board, the Board shall approve an application, or approve it with conditions, if it makes a positive finding based on the information presented that the proposed use:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
8. Will avoid problems associated with flood plain development and use; and
9. Is in conformance with the provisions of Section 15, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or statute administered by the municipality.

E. Special Exceptions

In addition to the criteria specified in Section 16(D) above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

1. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
2. The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
3. All proposed buildings, sewage disposal systems and other improvements are:
 - a. Located on natural ground slopes of less than 20%; and
 - b. Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers

and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be ½ the width of the 100-year flood-plain.

4. The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.

5. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

F. Expiration of Permit

Permits shall expire one year from the date of issuance if a substantial start is not made in constructing or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

G. Installation of Public Utility Service

A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone, unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials, or other written arrangements have been made between the municipal officials and the utility.

H. Appeals

1. Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers:

a. Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of an action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

b. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

2. Variance Appeals

Variances may be granted only under the following conditions:

a. Variances may be granted only from the dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.

b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

c. The Board shall not grant a variance unless it finds that:

(1) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and

(2) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:

(i) That the land in question cannot yield a reasonable return unless a variance is granted;

(ii) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

(iii) That the granting of a variance will not alter the essential character of the locality; and

(iv) That the hardship is not the result of action taken by the applicant or a prior owner.

d. Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance

to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term “structures necessary for access to or egress from the dwelling” shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

e. The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

f. A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

3. Administrative Appeals

When the Board of Appeals reviews a decision of the Code Enforcement Officer, the Board of Appeals shall hold a “de novo” hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board of Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

4. Appeal Procedure

a. Making an Appeal

(i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

(ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:

(a) A concise written statement indicating what relief is requested and why the appeal or variance should be granted.

(b) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.

(iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

(iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

b. Decision by Board of Appeals

(i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal. A (ii) The person filing the appeal shall have the burden of proof.

(iii) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.

(iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the

Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

5. Appeal to Superior Court

Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

6. Reconsideration

In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

I. Enforcement

1. Nuisances

Any violation of this Ordinance shall be deemed to be a nuisance.

2. Code Enforcement Officer

- a. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
- b. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
- c. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

3. Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

4. Fines

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance, shall be penalized in accordance with the provisions of 30-A MRSA, section 4452, as amended.

SECTION 17. DEFINITIONS

For the purposes of this Ordinance, the following definitions shall be observed. All terms, not specifically defined herein, shall have their ordinary or customary meanings. Words used in the present tense shall include the future and the plural shall include the singular.

Accessory Structure Or Use - A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Aggrieved Party - An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agriculture - The production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and greenhouse products. Agriculture does not include forest management and timber harvesting activities.

Aquaculture - The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Basal Area – the area of cross-section of a tree stem at 4 ½ feet above ground level and inclusive of bark.

Basement - Any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

Boat Launching Facility - A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Campground - Any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

Canopy – the more or less continuous cover formed by tree crowns in a wooded area.

Cluster Housing Development - A form of development for single-family residential subdivisions that permits a reduction in lot area and other requirements, provided there is not an increase in the number of lots that would have been permitted under a conventional subdivision and the resultant land area is devoted to open space.

Coastal Wetland - All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

Commercial Use - The use of lands, buildings or structures, other than a “home occupation”, defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

DBH – the diameter of a standing tree measured 4½ feet from ground level.

Development - a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

Dimensional Requirements - Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

Disability – any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by

bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

Driveway - A vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.
Emergency Operations - Operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

Essential Services - The construction, alteration or maintenance of gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Expansion of a Structure - An increase in the floor area or volume of a structure, including all extensions such as, but not limited to, attached decks, garages, porches and greenhouses.

Expansion of Use - The addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

Family - One or more persons occupying a premises and living as a single housekeeping unit.

Floodway - the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

Floor Area - The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Forest Management Activities - Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

Forested wetland - a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Foundation - The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

Freshwater Wetland - Freshwater swamps, marshes, bogs and similar areas which are:

1. of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of 10 acres; and
2. Inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Functionally water-dependent Uses - Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can not be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring

large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters.

Gray water - A liquid waste discharged from any fixture, appliance or appurtenance in connection with a plumbing system which does not receive or contain fecal matter.

Great Pond - Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

Great pond classified GPA – any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4-A, Section 465-A. This classification includes some, but not all, impoundments of rivers that are defined as great ponds.

Ground cover – small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Height of a Structure - The vertical distance between the mean original grade prior to construction at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

Home Occupation - An occupation or profession which is customarily conducted on or in a residential structure or property and which is:

- 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and
- 2) which employs no more than two (2) persons other than family members residing in the home.

Increase in Nonconformity of a Structure - Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Individual Private Campsites - An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fireplace, or tent platform.

Industrial - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Institutional – a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

Land Management Road – a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

Lot Area - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Marina - A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

Market Value - The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Mineral Exploration - Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral Extraction - Any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and transports the product removed, away from the extraction site.

Minimum Lot Width - The closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

Multi-unit Residential - A residential structure containing three (3) or more residential dwelling units.

Native – indigenous to the local forests.

Non-conforming condition – non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

Non-conforming Lot - A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-conforming Structure - A structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-conforming Use - Use of buildings, structures, premises, land or parts thereof which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Normal High-water Line (non-tidal waters) - That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

Person - An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland:

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Principal Structure - A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal Use - A use other than one which is wholly incidental or accessory to another use on the same premises.

Public Facility - Any facility, including, but not limited to buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Railroad - A mechanized mode of surface transportation that travels upon metal rails which are affixed to a bed or

surface of exposed mineral soil, gravel or other surfacing material constructed exclusively for railway trains and other allied vehicles.

Recent Flood Plain Soils - The following soil series as described and identified by the National Cooperative Soil Survey:

Alluvial	Cornish	Charles
Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

Recreational Facility - A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational Vehicle - A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Replacement System - A system intended to replace: 1) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2) any existing overboard wastewater discharge.

Residential Dwelling Unit - A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Residual basal area – the average of the basal area of trees remaining on a harvested site.

Riprap - Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

River - A free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

Road - A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

Salt Marsh - Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pond weed.

Salt Meadow - Areas of coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush; common threesquare occurs in fresher areas.

Service Drop - Any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service
 - a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
 - b. The total length of the extension is less than one thousand (1,000) feet.
2. in the case of telephone service
 - a. The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
 - b. The extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback - The nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

Shore Frontage - The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

Shoreland Zone - The land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within two hundred fifty (250) feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

Shoreline – the normal high-water line, or upland edge of a freshwater or coastal wetland.

Skid Trail – a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Slash – the residue, e.g. treetops and branches, left on the ground after a timber harvest.

Stream - A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area.

Structure - Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

Substantial Start - Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface Sewage Disposal System – any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspool; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

Sustained Slope - A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Tidal waters – all waters affected by tidal action during the maximum spring tide.

Timber Harvesting - The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (P), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

Tributary Stream - A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits on exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. “Tributary stream” does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

Upland Edge of a wetland - The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

Variance - A relaxation of the terms of this Ordinance where such variance would not be contrary to the public interest and where, owing to the conditions peculiar to the property, and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in undue hardship as defined in 30-A MRS § 4353. A financial hardship shall not constitute grounds for granting a variance. The crucial points for a variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present.

Vegetation - All live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4-1/2 feet above ground level.

Velocity zone – an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Volume of a Structure - The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Water Body - Any great pond, river, or stream.

Water Crossing - Any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

Wetland - A freshwater or coastal wetland.

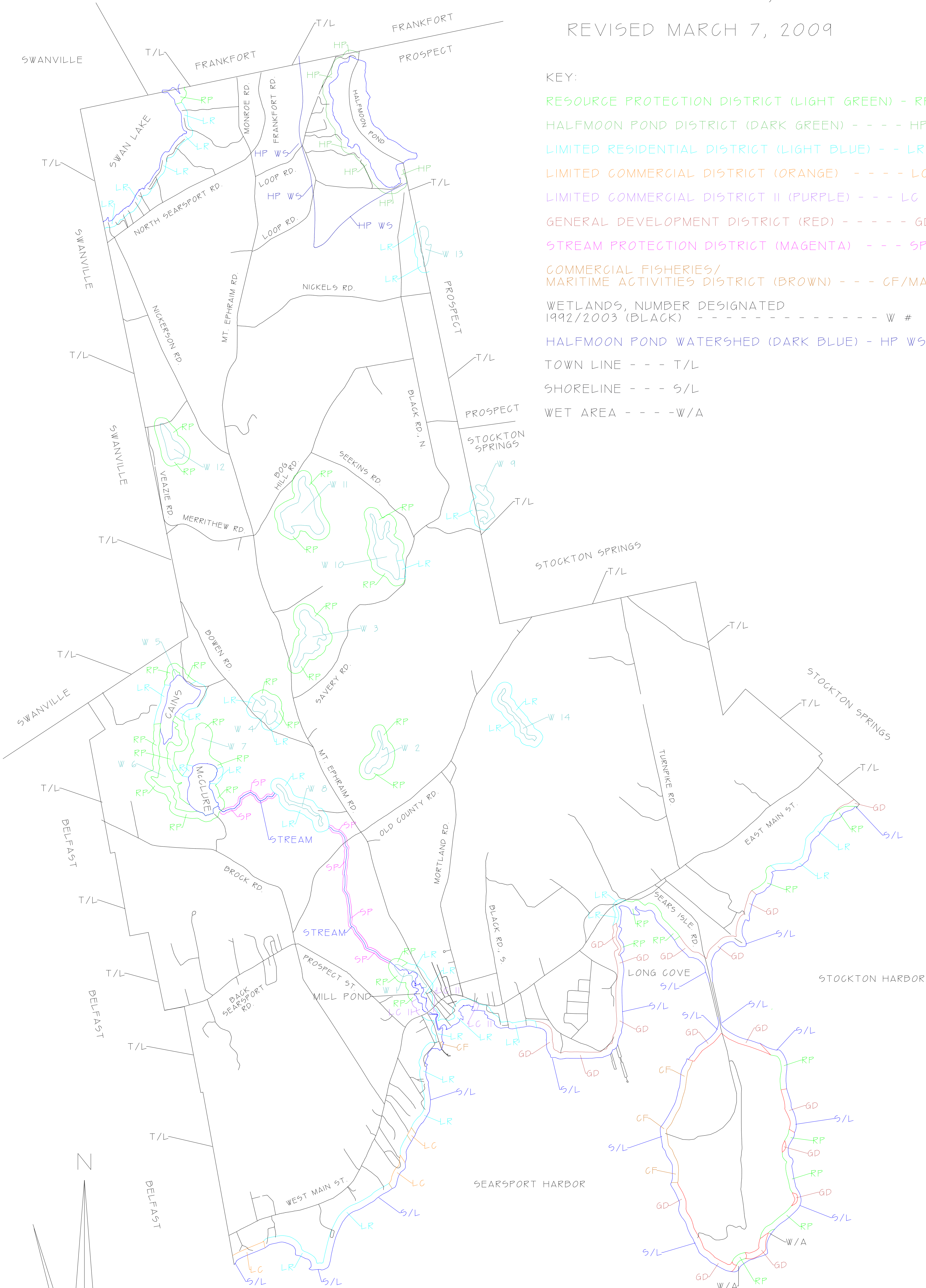
Woody vegetation – live trees or woody, non-herbaceous shrubs.

Effective date of this ordinance: March 16, 1991

Amendment effective dates: March 11, 2000 (Town Mtg.)
July 13, 2000 (Spc. Town Mtg)
March 7, 2009 (Town Mtg)

TOWN OF SEARSPORT
SHORELAND ZONING MAP
ADOPTED MARCH 8, 2003
REVISED MARCH 7, 2009

- KEY:
- RESOURCE PROTECTION DISTRICT (LIGHT GREEN) - RP
 - HALFMOON POND DISTRICT (DARK GREEN) - - - - HP
 - LIMITED RESIDENTIAL DISTRICT (LIGHT BLUE) - - LR
 - LIMITED COMMERCIAL DISTRICT (ORANGE) - - - - LG
 - LIMITED COMMERCIAL DISTRICT II (PURPLE) - - - LG II
 - GENERAL DEVELOPMENT DISTRICT (RED) - - - - GD
 - STREAM PROTECTION DISTRICT (MAGENTA) - - - SP
 - COMMERCIAL FISHERIES/
MARITIME ACTIVITIES DISTRICT (BROWN) - - - CF/MA
 - WETLANDS, NUMBER DESIGNATED
1992/2003 (BLACK) - - - - - W #
 - HALFMOON POND WATERSHED (DARK BLUE) - HP WS
 - TOWN LINE - - - T/L
 - SHORELINE - - - S/L
 - WET AREA - - - -W/A



THIS MAP HAS BEEN PREPARED USING SEARSPORT E-911 ROAD LINES AND THE ADOPTED SEARSPORT SHORELAND ZONING MAPS.
REVISED ACCORDING TO TOWN MEETING MARCH 07, 2009; ARTICLES 39 & 40.
THE SHORELAND ZONE AS DEPICTED ON THIS MAP IS APPROXIMATE ONLY AND MUST BE FIELD LOCATED.
PREPARED BY SEARSPORT GIS
MARCH, 2009